

## Message

**From:** White, Thomas [thomas.white@hq.doe.gov]  
**Sent:** 12/8/2020 1:47:10 PM  
**To:** Cohen, Janet [cohen.janet@epa.gov]; McKenna, Chris [McKenna.Chris@epa.gov]; Bunker, Byron [bunker.byron@epa.gov]  
**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins  
**Attachments:** Letter to Under Secretary Menezes on request for reconsideration (signed).pdf; Rawlins gasoline & diesel destinations (complete).xlsx; SWR Exhibits.pdf; Stillwater Associates - DOE scoring for Sinclair Wyoming Refinery Reviewed 20201206.xlsx; RFS Sinclair\_Wyoming\_Refinery\_2018\_Petition Final.docx

Janet, Chris and Byron,

## Ex. 5 Deliberative Process (DP) / Ex. 4 CBI

Tom

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**From:** Powell, John  
**Sent:** Sunday, December 06, 2020 11:03 PM  
**To:** White, Thomas <thomas.white@hq.doe.gov>  
**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

For review and for the folder.

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

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**From:** Barry Schaps <[BSchaps@stillwaterassociates.com](mailto:BSchaps@stillwaterassociates.com)>  
**Date:** Sunday, Dec 06, 2020, 10:22 PM  
**To:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>  
**Subject:** [EXTERNAL] Sinclair Wyoming Rawlins

## Ex. 5 Deliberative Process (DP) / Ex. 4 CBI

## Ex. 5 Deliberative Process (DP) / Ex. 4 CBI

Barry Schaps

Ex. 6 Personal Privacy (PP)

Ex. 6 Personal Privacy (PP)

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**From:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>

**Sent:** Sunday, December 06, 2020 11:19 AM

**To:** Barry Schaps <Ex. 6 Personal Privacy (PP)>

**Subject:** Sinclair 2018

Barry,

The Sinclair 2018 should be the top SRE priority.

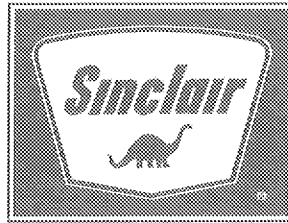
**Ex. 4 CBI**

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([www.blackberry.com](http://www.blackberry.com))

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Use caution if this message contains attachments, links or requests for information.

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Adam G. Suess  
Vice President, Government Relations  
The Sinclair Companies  
550 East South Temple  
Salt Lake City, Utah 84102

January 3, 2020

Mark W. Menezes  
Under Secretary of Energy  
United States Department of Energy  
1000 Independence Avenue, SW  
Washington, D.C. 20585

**RE: DOE's Scoring of Sinclair Wyoming Refining Company's 2018 Small Refinery  
Hardship Petition**

Dear Under Secretary Menezes:

I thank you again for meeting with me and other small refinery representatives last November. We are appreciative of your time and grateful for your dedication to ensuring that U.S. energy policy affords all domestic energy producers the ability to succeed.

As we discussed, small refinery hardship relief is critical to small refineries across the country—and those refineries, as we see it, are critical to the domestic energy market, to energy security and independence, and to the broader economy. And as you know, many small refineries are concerned with the way in which the Department of Energy is scoring certain metrics that are a part of the Department's small refinery exemption scoring matrix. We look forward to working with your staff over the coming months in addressing our concerns.

But today I write for another purpose. When we met,

**Ex. 4 CBI**

**Ex. 4 CBI**

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# Ex. 4 CBI

## I. THE 2018 SWRC PETITION

On December 21, 2018, SWRC submitted its Petition for Extension of Small Refinery Exemption from 2018 RFS Requirements.

Ex. 4 CBI

# Ex. 4 CBI

Under the DOE scoring metrics, a small refinery that has a niche market advantage gets a score of “0” for the niche market metric. A small refinery that serves competitive markets receives a score of “10.” Under the DOE methodology, DOE can make this determination based on a number of factors, but there is also a bright line test:

Landlocked refiners whose immediate market does not have access to a refined products pipeline are scored a 0 as are those whose primary products are not transportation fuels.

# Ex. 4 CBI

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Landlocked refiners with direct access to a single pipeline are scored a 5. Refiners with access to more than one pipeline are scored a 10.<sup>3</sup>

# Ex. 4 CBI

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<sup>3</sup> DOE, Small Refinery Exemption Study: An Investigation into Disproportionate Economic Hardship at 35 (Mar. 2011) (the “2011 Study”).

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# Ex. 4 CBI

## III. ANALYSIS

The essential purpose of the niche market metric is to determine whether a refinery “has access to specific geographical markets with limited alternative finished product supply or access to distressed crude oil supply, thus creating higher than industry refining margins.”<sup>4</sup> The metric also looks to identify refiners that produce a “specialty slate of products,” in addition to gasoline and diesel, because the sale of those specialty products “also result in higher than average industry refining margins.”<sup>5</sup> Finally, the metric examines whether a petitioning refiner’s immediate market has access to refined product pipelines.

# Ex. 4 CBI

In determining whether a refinery operates in a niche market, the Department primarily considers whether the refinery has access to a market with little competition for transportation fuels or whether it is able to purchase crude feedstock at below-market rates, either of which would, DOE presumes, allow that refiner to extract above-market margins.

**Ex. 4 CBI**

# Ex. 4 CBI

<sup>4</sup> 2011 Study.

<sup>5</sup> 2011 Study.

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**Ex. 4 CBI**

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**Ex. 4 CBI**



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**Ex. 4 CBI**

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**Ex. 4 CBI**

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**Ex. 4 CBI****IV. CONCLUSION**

In the Department's scoring of SWRC's 2018 petition, it explains this: The niche market "metric is intended to examine the ability of a refiner to enhance refining margins through either the lack of transportation fuel competition, low cost feedstock, or production of non-transportation fuel products."

**Ex. 4 CBI****Ex. 4 CBI**

When we met in November, you confirmed to me and to the other small refinery representatives something that I previously imagined to be true: The Department of Energy desires to appropriately score all small refinery hardship petitions. The Department wants to get it right.

**Ex. 4 CBI****Ex. 4 CBI**

Sincerely,



Adam G. Suess

Cc: Mark Robeck, Deputy General Counsel for Energy Policy  
John Powell, Deputy Director for Energy Security, Office of Policy

## Message

**From:** Cohen, Janet [cohen.janet@epa.gov]  
**Sent:** 4/29/2019 5:32:28 PM  
**To:** Dubey, Susmita [dubey.susmita@epa.gov]; Garfinkle, Stacey [garfinkle.stacey@epa.gov]; Le, Madison [Le.Madison@epa.gov]; Machiele, Paul [machiele.paul@epa.gov]; McKenna, Chris [McKenna.Chris@epa.gov]; Michaels, Lauren [Michaels.Lauren@epa.gov]; Nelson, Karen [nelson.karen@epa.gov]; Parsons, Nick [Parsons.Nick@epa.gov]; Piotrowski, Greg [piotrowski.greg@epa.gov]; Spencer, Mark [spencer.mark@epa.gov]; Stahle, Susan [Stahle.Susan@epa.gov]; Weihrauch, John [Weihrauch.John@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Bunker, Byron [bunker.byron@epa.gov]  
**Subject:** FW: 2018 RFS SRE Scoring 4/5  
**Attachments:** **Ex. 4 CBI**  
**Ex. 4 CBI** 2018 Sinclair Casper\_Final.pdf

-----Original Message-----

**From:** Yunaska, Kyle <kyle.yunaska@hq.doe.gov>  
**Sent:** Friday, April 26, 2019 3:10 PM  
**To:** Cohen, Janet <cohen.janet@epa.gov>  
**Cc:** Solan, David <david.solan@hq.doe.gov>; Powell, John <john.powell@hq.doe.gov>; White, Thomas <thomas.white@hq.doe.gov>  
**Subject:** 2018 RFS SRE Scoring 4/5

CONTAINS CONFIDENTIAL BUSINESS INFORMATION

Hi Janet,

Attached are the DOE SRE memos, scores, and scoring descriptions for:

**Ex. 4 CBI**

Sinclair Casper

Let me know if you have any questions.

Thanks,  
Kyle

Kyle R. Yunaska  
Senior Advisor and Chief of Staff  
U.S. Department of Energy, Office of Policy

## DOE Application of the Small Refinery Scoring Matrix for the Sinclair Casper Wyoming Refinery for Exemption as an Obligated Party under the Renewable Fuel Standard

### Background

Section 211(o)(9)(A)(ii) of the CAA required that DOE conduct a study assessing whether the Renewable Fuel Standard (RFS) would impose a “disproportionate economic hardship” on small refineries<sup>1</sup>. This study was required to determine whether the blanket exemption for small refineries as obligated parties under the RFS should be extended for two years after 2010, the year that the blanket exemption expired. EPA was required to grant the continued exemption to all small refineries that were determined by DOE to experience “disproportionate economic hardship” if they became obligated parties after 2010.

In order to comply with the CAA, DOE developed a methodology to determine whether specific refineries would experience “disproportionate economic hardship.” The methodology required business information for the small refineries. This was acquired through a survey of all small refineries. This survey was sent to the owners of 59 refineries. DOE received data for 25 refineries but only analyzed the data for 18 of these refineries<sup>2</sup>. After completing the *Small Refinery Exemption Study* it was provided by the Secretary of Energy to the EPA Administrator.

The CAA also requires that EPA consult with DOE concerning individual applications by small refineries for an exemption from RFS requirements.<sup>3</sup> In order to fulfill this requirement, DOE has applied the scoring matrix, developed for the Small Refinery Exemption Study, to refineries requesting an exemption. DOE employs information provided by EPA from the applicants’ request to see whether this refinery would have received an exemption based on the criteria used in the *Small Refinery Exemption Study*. This scoring matrix includes two general categories; a structural and economic metric and a viability metric that together are used to evaluate whether a refinery faced disproportionate economic hardship.

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<sup>1</sup> Small refineries are defined as those facilities with aggregate crude oil throughput that does not exceed 75,000 barrels per calendar day.

<sup>2</sup> Seven survey responses were not analyzed because the refineries for which the survey response was provided did not meet the CAA definition of a small refinery or because the survey response was incomplete.

<sup>3</sup> The CAA states “(B) Petitions based on disproportionate economic hardship; (i) Extension of exemption. A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.; (ii) Evaluation of petitions In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.; (iii) Deadline for action on petitions The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

### Sinclair Casper, Wyoming Refinery

EPA consulted with DOE to aid in their assessment of whether the Sinclair Casper Wyoming refinery should receive a RFS exemption for 2019. DOE is responding to EPA's request by providing values and an explanation for the scoring matrix for this refinery.

Based on the results from the DOE RFS small refinery exemption scoring matrix, described above, the Sinclair refinery received a score of **Ex. 4 CBI** in the structural and economic index and a score of **Ex. 4 CBI** in the viability index.

Since the Sinclair Casper Wyoming refinery scored **Ex. 4 CBI** in the structural and economic index **Ex. 4 CBI** in the viability index, DOE findings are that EPA consider providing a **Ex. 4 CBI** percent exemption from the 2019 RFS<sup>4</sup>.

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<sup>4</sup> This is in accordance with DOE's fiscal year 2016 appropriations bill that directs the Secretary of Energy to recommend to the EPA Administrator a 50 percent exemption of the RFS requirements for the petitioner that scores above a 1.0 on either the structural and economic metric or viability metric used in evaluating disproportionate economic hardship.

2019 Sinclair  
Casper  
Refining  
Company -  
Evansville,  
WY

## Terms:

## Scoring

## Weighting

1 Structural		PADD	4
	0 = good access (BB- rating or above); 5 = moderate access (rating in B's below BB-); 10 = poor access (rating in C's or below; or D/E ≥ 50%)		
a Access to capital/credit			
b Other business lines besides refining & marketing	0 = other lines; 10 = no other lines		
c Market acceptance of renewables (Local)	0 = products accepted; 10 = product not accepted		
i E10	0 = high acceptance; 5 = some resistance		
ii E85	not scored because of small E85 volumes		
iii Biodiesel	not scored because of difficulty determining measurement		
d Percentage of diesel production	0 = $D/(G+D) \leq$ industry avg.; 5 = industry avg. < $D/(G+D) < 40\%$ ; 10 = $D/(G+D) \geq 40\%$		
e Subject to exceptional state regulations	0 = not subject; 5 = some additional barriers; 10 = subject to exceptional state regs		
2 Economic			
a Relative refining margin ranking	10 = negative; 5 = non-negative and below 3-year industry avg.; 0 = at or above 3-year industry average		
b Renewable fuel blending (% of production)			
i Ethanol blending	0 = ≥75%; 5 = 25% - 74%; 10 = <25%		
ii Biodiesel blending	0 = 1.1% of diesel production; 10 = <1.1% of diesel production		Ex. 4 CBI
iii Other Advanced Biofuel blending	0 = some blending; 10 = no blending		
c In a niche market	0 = niche; 5 = moderate niche; 10 = no niche		
d RINs net revenue or cost	0 = revenue > cost; 10 = revenue < cost		
Subtotal			
Average Subtotal			
Structural/Economic Index			
3 Viability			
a Compliance cost eliminates efficiency gains (impairment)	0 = no impact on efficiency; 5 = moderate impact; 10 = significant impact		
b Individual special events	0 = no special event; 5 = moderate event; 10 = significant event		
c Compliance costs likely to lead to shut down	0 = not likely to shut down; 10 = likely to shut down		
Subtotal			
Average Subtotal			
Viability Index			



## Pre-decisional/Deliberative Process

# Confidential Business Information

## Scoring Petitions for Small Refinery Exemption

### Sinclair Casper Refining Company – Evansville, WY 2019

*Section 1(a) Access to Capital/Credit*

This section is scored with consideration of the credit rating of the refinery and the corporate entity. The purpose of this metric is to determine if a refinery has the ability to borrow and invest as may be needed to meet RFS requirements.

DOE scores companies with poor access to capital a ten, as demonstrated by an S&P (or equivalent) long-term credit rating of C's or below or a debt to equity ratio of 50 percent or above. If a company's credit rating in the B's below BB-, it is scored a five, or a zero if BB- or above.

**Refinery Score Explained**

# Ex. 4 CBI

*Section 1(b) Other Lines of Business Besides Refining and Marketing*

Other lines of business are intended to help determine if a refiner has a portfolio of businesses that will lower the volatility of the refiner's earnings or if the refiner's profitability is solely dependent on transportation fuel margins. Much as diversifying a stock portfolio reduces the exposure to a single stock, diversifying business lines will reduce the exposure to a single revenue source (transportation fuels margins) for a refiner.

This section considers both the refinery level and the corporate level businesses. Consistent with the 2011 Study, DOE has always considered an applicant's additional lines of business, in particular upstream operations such as exploration and development that are less correlated with refining, that tend to smooth the firm's cash flows and improve its ability to borrow money at closer to investment grade rates.<sup>1</sup> Typically, exploration and production are not operated within the refinery level entity, but rather with an affiliated corporation, compelling inclusion of the affiliated businesses in the other business line analysis. Refineries with other lines of business score a zero, and those refineries without other lines of business score a ten.

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<sup>1</sup> 2011 Study at 34.

## Pre-decisional/Deliberative Process

## Refinery Score Explained

# Ex. 4 CBI

*Section 1(c) Local Acceptance of Renewables*

Section 1(c) was intended to address the local market consumer acceptance of a renewable fuel versus the national acceptance of that fuel. Consumer acceptance is indicated by retail sales, not by wholesales of products.<sup>2</sup> Thus, retail sales volumes are needed to show the consumer market acceptance of a fuel. Of the three fuels addressed in this section (E10, E85, and biodiesel), only the consumer market acceptance of E10 (subsection 1(c)(i)) is scored for any refinery under the 2011 Study because volumetric data for retail sales is not available at the local level or at the national level for E85 or biodiesel. Consequently, the narrative text on page 34 of the 2011 Study explained that metrics were only fully developed for E10, and specifically noted that scoring for E85 and Biodiesel was “Reserved for later evaluation.”

Subsection 1(c)(i): As described in the 2011 Study for E10 gasoline, refiners in high acceptance states (with 75 percent or greater E10 blending) score a zero, refiners who reside in states with less than 75 percent E10 blending receive a five, and those with less than 25 percent blending receive a ten. Currently, E10 is widely accepted in the retail gasoline market.<sup>3</sup>

## Refinery Score Explained

# Ex. 4 CBI

*Section 1(d) – Percentage of Diesel Production*

This metric is intended to credit a refiner that makes a high percentage of its transportation fuel as diesel fuel. Compliance with the RFS requirements is more difficult than gasoline compliance. As noted in the 2011 Study, refineries that produce less than or equal to the industry average of approximately 32 percent diesel production receive a score of zero, those with greater than the industry average but less than 40 percent receive a score of five, and those at 40 percent diesel or above score a ten.

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<sup>2</sup> See 2011 Study at 15.

<sup>3</sup> *Id.* (“Blends of petroleum-based gasoline with 10% ethanol, commonly referred to as E10, account for more than 95% of the fuel consumed in motor vehicles with gasoline engines.”).

## Pre-decisional/Deliberative Process

## Refinery Score Explained

**Ex. 4 CBI***Section 1(e) - Subject to Exceptional State Regulations*

This metric is intended to credit those refineries that are located in states that impose restrictive regulations that inhibit the ability of a refiner to meet RFS requirements. According to the 2011 Study,<sup>4</sup> certain states require refiners to sell unblended fuel. Refiners are required to purchase RINs to meet their obligations even though they have no blending opportunities with this fuel. Also, under certain unusual circumstances, the interplay between the State regulations (such as the California Low Carbon Fuel Standard) and the Federal RFS may increase compliance costs.

Those refiners subject to exceptional regulations receive a ten, those with some barriers for compliance are scored a five, and those not subject to exceptional state requirements are scored a zero.

## Refinery Score Explained

**Ex. 4 CBI***Section 2(a) Relative Refining Margin*

As noted in the 2011 Study, refining margins differ from refiner to refiner for many reasons. To eliminate market volatility, a three-year average margin for all products is calculated for the petitioning refinery. This three-year average, supplied to DOE by EPA on an annual basis, is compared to the national three-year average margin for all products. Refineries with a negative net average margin are scored a ten, those below the industry average but with a non-negative net average margin are scored a five, and those at or above the industry average are scored a zero.

## Refinery Score Explained

**Ex. 4 CBI**

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<sup>4</sup> 2011 Study at 34.

## Pre-decisional/Deliberative Process

*Section 2(b) Renewable Fuel Blending*

Section 2(b) is intended to measure an individual refinery's renewable fuel blending by examining the percentage of refinery production of a fuel type (gasoline or diesel) that is blended with a biofuel. The higher percentage of a fuel a refiner blends with renewables, the easier it will be for the refiner to meet RFS requirements. Of the three fuel types addressed in this section (Ethanol, Biodiesel, and Advanced Biofuels), only Ethanol is scored (subsection 2(b)(i)) and has ever been scored for any refinery under the 2011 Study. Although the 2011 Study provided a scoring level for metrics 2(b)(ii) (Biodiesel) and 2(b)(iii) (Other Advanced Biofuel), the study notes that it was "reserved for later evaluation" and, in contrast to the Ethanol metric, did not provide explanatory text to inform the evaluation for these two metrics.<sup>5</sup> Because there is still little or no data collected on biodiesel and advanced biofuel blending at refineries needed for a comparison to determine if there is a disproportionate economic impact, these two metrics still are not scored.

Subsection 2(b)(i): This metric examines the percentage of the gasoline pool that is blended with ethanol. The 2011 Study provides that refineries with 75 percent or more of their gasoline blended to E10 were scored a zero, those with 25 to 74 percent of their gasoline blended to E10 were scored a five, those with less than 25 percent blended were scored a ten.<sup>6</sup>

**Refinery Score Explained**

# Ex. 4 CBI

*Section 2(c) – In a Niche Market*

This metric is intended to examine the ability of a refiner to enhance refining margins through either the lack of transportation fuel competition, low cost feedstock, or production of non-transportation fuel products.

As noted in the explanatory text on page 35 of the 2011 Study,<sup>7</sup> this metric was intended to determine if a refinery was in a "niche" market in that it has access to specific geographical markets with limited alternative finished product supply or access to distressed crude oil supply, thus creating potential for higher than industry refining margins for the niche refiner. Similarly, refineries classified as "niche" also are those that "produce a specialty slate of products (lube oils, greases, asphalt, etc.) in addition to gasoline and diesel." The sale of these types of products will also result in the potential for higher than industry refining margins.

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<sup>5</sup> 2011 Study at 35.

<sup>6</sup> 2011 Study at 33.

<sup>7</sup> 2011 Study at 35.

## Pre-decisional/Deliberative Process

The scoring levels for this metric are: Refineries in a niche market are scored a zero; those with a “moderate niche impact” are scored a five; and those without a niche market are scored a ten. The explanatory text also states that landlocked refiners whose immediate market does not have access to a refined product pipeline are scored a zero as are those whose primary products are not transportation fuels. Landlocked refiners with direct access to single pipeline are scored a five, and refiners with access to more than one pipeline are scored a ten.

## Refinery Score Explained

# Ex. 4 CBI

## Section 2(d) – RINs net revenue or cost

This metric was intended to determine whether RIN purchases or sales constitute a net revenue or cost, and a score of ten is awarded if RINs are a net cost or a score of zero if a net revenue generator. However, this metric was not scored in the 2011 Study because there was a “lack of consistency” among the responders to the DOE small refiner survey that was designed to evaluate this metric.<sup>8</sup> Because there was no information available to compare a refinery’s RIN cost/revenue with an industry average obtained from study of refineries’ data (rather than a study of national price data) to determine disproportionate economic hardship, this metric is not scored.

## Section 3

Although the 2011 Study only awarded potential scores of zero or ten for the section 3, DOE adopted an addendum to the study in May 2014, adding an intermediate score for metrics 3(a)<sup>9</sup> and 3(b)<sup>10</sup> in the viability index and reasoning that circumstances have changed since the 2011 study was completed. Generally, there is an improved business climate for refineries that is associated with the country’s economic recovery. In addition, refiners have now had many years since the initiation of the RFS program in 2007 to develop business practices to meet RFS obligations. In assisting EPA in evaluating petitions for small refinery RFS exemptions for 2013, DOE has found that some small refineries should be scored an intermediate level of 5 for metric 3a [whether compliance costs eliminate efficiency gains]. This intermediate score acknowledges an impact of RFS compliance costs on efficiency gains, but at a level lower than would justify a score of 10. DOE also has concluded that an intermediate score of 5 may be appropriate for viability metric 3b [individual special events causing a temporary negative impact] in certain circumstances. Both of these viability metrics address impacts that may

<sup>8</sup> 2011 Study at 35.

<sup>9</sup> The 2011 Study provided for a score of zero if “no impact on efficiency” or ten if “impact on efficiency”. *Id.* at 36.

<sup>10</sup> The 2011 Study provided for a score of zero if “no special event” or ten if “special event impacting viability”. *Id.*

## Pre-decisional/Deliberative Process

occur across a continuum, and providing for the possibility of an intermediate score allows DOE to more accurately assess an individual refinery's economic situation.<sup>11</sup>

*Section 3(a) – Compliance Costs Eliminate Efficiency Gains (Impairment)*

As described in the 2011 Study, this metric evaluates whether the totality of factors, including both survey results and public information, would reduce the profitability of the firm enough to impair future efficiency improvements. While this would not lead to immediate shutdown, given the increasingly competitive refining market, significant constraints on efficiency improvements would eventually leave many small refineries at risk.

**Refinery Score Explained**

**Ex. 4 CBI**

*Section 3(b) – Individual Special Events*

This metric evaluates whether refinery-specific events (such as a shutdown due to an accident, and subsequent loss of revenue) in the recent past have a temporary negative impact on the ability of the refinery to comply with the RFS. If an event occurs that affects multiple refineries, it would not constitute a refinery-specific event that would have a *disproportionate* economic impact.

**Refinery Score Explained**

**Ex. 4 CBI**

*Section 3 (c) - Compliance Costs Likely to Lead to Shut-Down*

Some refineries have a unique vulnerability such as a weak competitive position and any significant additional burden could cause bankruptcy or closure. This metric covers those refineries indicating that compliance may lead to such an outcome. A score of ten is awarded if the refinery is "likely to shut down" or a score of zero if not.

<sup>11</sup> Office of Energy Policy and Systems Analysis, U.S. Dept. of Energy, *Addendum to the Small Refinery Study: An Investigation into Disproportionate Economic Hardship*, Available at: <https://www.epa.gov/sites/production/files/2016-12/documents/rfs2-small-refiner-study-addendum-05-2014.pdf> (May 2014) at 1.

Pre-decisional/Deliberative Process

Refinery Score Explained

**Ex. 4 CBI**

## DOE Application of the Small Refinery Scoring Matrix for the Sinclair Wyoming Refinery for Exemption as an Obligated Party under the Renewable Fuel Standard

### Background

Section 211(o)(9)(A)(ii) of the CAA required that DOE conduct a study assessing whether the Renewable Fuel Standard (RFS) would impose a “disproportionate economic hardship” on small refineries<sup>1</sup>. This study was required to determine whether the blanket exemption for small refineries as obligated parties under the RFS should be extended for two years after 2010, the year that the blanket exemption expired. EPA was required to grant the continued exemption to all small refineries that were determined by DOE to experience “disproportionate economic hardship” if they became obligated parties after 2010.

In order to comply with the CAA, DOE developed a methodology to determine whether specific refineries would experience “disproportionate economic hardship.” The methodology required business information for the small refineries. This was acquired through a survey of all small refineries. This survey was sent to the owners of 59 refineries. DOE received data for 25 refineries but only analyzed the data for 18 of these refineries<sup>2</sup>. After completing the *Small Refinery Exemption Study* it was provided by the Secretary of Energy to the EPA Administrator.

The CAA also requires that EPA consult with DOE concerning individual applications by small refineries for an exemption from RFS requirements.<sup>3</sup> In order to fulfill this requirement, DOE has applied the scoring matrix, developed for the Small Refinery Exemption Study, to refineries requesting an exemption. DOE employs information provided by EPA from the applicants’ request to see whether this refinery would have received an exemption based on the criteria used in the *Small Refinery Exemption Study*. This scoring matrix includes two general categories; a structural and economic metric and a viability metric that together are used to evaluate whether a refinery faced disproportionate economic hardship.

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<sup>1</sup> Small refineries are defined as those facilities with aggregate crude oil throughput that does not exceed 75,000 barrels per calendar day.

<sup>2</sup> Seven survey responses were not analyzed because the refineries for which the survey response was provided did not meet the CAA definition of a small refinery or because the survey response was incomplete.

<sup>3</sup> The CAA states “(B) Petitions based on disproportionate economic hardship; (i) Extension of exemption. A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.; (ii) Evaluation of petitions In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.; (iii) Deadline for action on petitions The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.



### Sinclair Rawlings, Wyoming Refinery

EPA consulted with DOE to aid in their assessment of whether the Sinclair Rawlings Wyoming refinery should receive a RFS exemption for 2019. DOE is responding to EPA's request by providing values and an explanation for the scoring matrix for this refinery.

Based on the results from the DOE RFS small refinery exemption scoring matrix, described above, the Sinclair refinery received a score of **Ex. 4 CBI** in the structural and economic index and a score of **Ex. 4 CBI** in the viability index.

Since the Sinclair Rawlings Wyoming refinery scored **Ex. 4 CBI** in the structural and economic index **Ex. 4 CBI** in the viability index, DOE findings are that EPA consider providing a **Ex. 4 CBI** percent exemption from the 2019 RFS<sup>4</sup>.

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<sup>4</sup> This is in accordance with DOE's fiscal year 2016 appropriations bill that directs the Secretary of Energy to recommend to the EPA Administrator a 50 percent exemption of the RFS requirements for the petitioner that scores above a 1.0 on either the structural and economic metric or viability metric used in evaluating disproportionate economic hardship.

2019 Sinclair  
Wyoming  
Refining  
Company -  
Rawlins, WY

## Terms:

## Scoring

## Weighting

1 Structural		PADD	4
	0 = good access (BB- rating or above); 5 = moderate access (rating in B's below BB-); 10 = poor access (rating in C's or below; or D/E ≥ 50%)		
a Access to capital/credit			
b Other business lines besides refining & marketing	0 = other lines; 10 = no other lines		
c Market acceptance of renewables (Local)	0 = products accepted; 10 = product not accepted		
i E10	0 = high acceptance; 5 = some resistance		
ii E85	not scored because of small E85 volumes		
iii Biodiesel	not scored because of difficulty determining measurement		
d Percentage of diesel production	0 = $D/(G+D) \leq$ industry avg.; 5 = industry avg. < $D/(G+D) < 40\%$ ; 10 = $D/(G+D) \geq 40\%$		
e Subject to exceptional state regulations	0 = not subject; 5 = some additional barriers; 10 = subject to exceptional state regs		
2 Economic			
a Relative refining margin ranking	10 = negative; 5 = non-negative and below 3-year industry avg.; 0 = at or above 3-year industry average		
b Renewable fuel blending (% of production)			
i Ethanol blending	0 = ≥75%; 5 = 25% - 74%; 10 = <25%		
ii Biodiesel blending	0 = 1.1% of diesel production; 10 = <1.1% of diesel production		Ex. 4 CBI
iii Other Advanced Biofuel blending	0 = some blending; 10 = no blending		
c In a niche market	0 = niche; 5 = moderate niche; 10 = no niche		
d RINs net revenue or cost	0 = revenue > cost; 10 = revenue < cost		
Subtotal			
Average Subtotal			
Structural/Economic Index			
3 Viability			
a Compliance cost eliminates efficiency gains (impairment)	0 = no impact on efficiency; 5 = moderate impact; 10 = significant impact		
b Individual special events	0 = no special event; 5 = moderate event; 10 = significant event		
c Compliance costs likely to lead to shut down	0 = not likely to shut down; 10 = likely to shut down		
Subtotal			
Average Subtotal			
Viability Index			

## Pre-decisional/Deliberative Process

# Confidential Business Information

## Scoring Petitions for Small Refinery Exemption

### Sinclair Wyoming Refining Company – Rawlins, WY 2019

*Section 1(a) Access to Capital/Credit*

This section is scored with consideration of the credit rating of the refinery and the corporate entity. The purpose of this metric is to determine if a refinery has the ability to borrow and invest as may be needed to meet RFS requirements.

DOE scores companies with poor access to capital a ten, as demonstrated by an S&P (or equivalent) long-term credit rating of C's or below or a debt to equity ratio of 50 percent or above. If a company's credit rating in the B's below BB-, it is scored a five, or a zero if BB- or above.

**Refinery Score Explained**

# Ex. 4 CBI

*Section 1(b) Other Lines of Business Besides Refining and Marketing*

Other lines of business are intended to help determine if a refiner has a portfolio of businesses that will lower the volatility of the refiner's earnings or if the refiner's profitability is solely dependent on transportation fuel margins. Much as diversifying a stock portfolio reduces the exposure to a single stock, diversifying business lines will reduce the exposure to a single revenue source (transportation fuels margins) for a refiner.

This section considers both the refinery level and the corporate level businesses. Consistent with the 2011 Study, DOE has always considered an applicant's additional lines of business, in particular upstream operations such as exploration and development that are less correlated with refining, that tend to smooth the firm's cash flows and improve its ability to borrow money at closer to investment grade rates.<sup>1</sup> Typically, exploration and production are not operated within the refinery level entity, but rather with an affiliated corporation, compelling inclusion of the affiliated businesses in the other business line analysis. Refineries with other lines of business score a zero, and those refineries without other lines of business score a ten.

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<sup>1</sup> 2011 Study at 34.

## Pre-decisional/Deliberative Process

## Refinery Score Explained

**Ex. 4 CBI***Section 1(c) Local Acceptance of Renewables*

Section 1(c) was intended to address the local market consumer acceptance of a renewable fuel versus the national acceptance of that fuel. Consumer acceptance is indicated by retail sales, not by wholesales of products.<sup>2</sup> Thus, retail sales volumes are needed to show the consumer market acceptance of a fuel. Of the three fuels addressed in this section (E10, E85, and biodiesel), only the consumer market acceptance of E10 (subsection 1(c)(i)) is scored for any refinery under the 2011 Study because volumetric data for retail sales is not available at the local level or at the national level for E85 or biodiesel. Consequently, the narrative text on page 34 of the 2011 Study explained that metrics were only fully developed for E10, and specifically noted that scoring for E85 and Biodiesel was “Reserved for later evaluation.”

Subsection 1(c)(i): As described in the 2011 Study for E10 gasoline, refiners in high acceptance states (with 75 percent or greater E10 blending) score a zero, refiners who reside in states with less than 75 percent E10 blending receive a five, and those with less than 25 percent blending receive a ten. Currently, E10 is widely accepted in the retail gasoline market.<sup>3</sup>

## Refinery Score Explained

**Ex. 4 CBI***Section 1(d) – Percentage of Diesel Production*

This metric is intended to credit a refiner that makes a high percentage of its transportation fuel as diesel fuel. Compliance with the RFS requirements is more difficult than gasoline compliance. As noted in the 2011 Study, refineries that produce less than or equal to the industry average of approximately 32 percent diesel production receive a score of zero, those with greater than the industry average but less than 40 percent receive a score of five, and those at 40 percent diesel or above score a ten.

<sup>2</sup> See 2011 Study at 15.

<sup>3</sup> *Id.* (“Blends of petroleum-based gasoline with 10% ethanol, commonly referred to as E10, account for more than 95% of the fuel consumed in motor vehicles with gasoline engines.”).

## Pre-decisional/Deliberative Process

## Refinery Score Explained

**Ex. 4 CBI***Section 1(e) - Subject to Exceptional State Regulations*

This metric is intended to credit those refineries that are located in states that impose restrictive regulations that inhibit the ability of a refiner to meet RFS requirements. According to the 2011 Study,<sup>4</sup> certain states require refiners to sell unblended fuel. Refiners are required to purchase RINs to meet their obligations even though they have no blending opportunities with this fuel. Also, under certain unusual circumstances, the interplay between the State regulations (such as the California Low Carbon Fuel Standard) and the Federal RFS may increase compliance costs.

Those refiners subject to exceptional regulations receive a ten, those with some barriers for compliance are scored a five, and those not subject to exceptional state requirements are scored a zero.

## Refinery Score Explained

**Ex. 4 CBI***Section 2(a) Relative Refining Margin*

As noted in the 2011 Study, refining margins differ from refiner to refiner for many reasons. To eliminate market volatility, a three-year average margin for all products is calculated for the petitioning refinery. This three-year average, supplied to DOE by EPA on an annual basis, is compared to the national three-year average margin for all products. Refineries with a negative net average margin are scored a ten, those below the industry average but with a non-negative net average margin are scored a five, and those at or above the industry average are scored a zero.

## Refinery Score Explained

**Ex. 4 CBI**

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<sup>4</sup> 2011 Study at 34.

## Pre-decisional/Deliberative Process

*Section 2(b) Renewable Fuel Blending*

Section 2(b) is intended to measure an individual refinery's renewable fuel blending by examining the percentage of refinery production of a fuel type (gasoline or diesel) that is blended with a biofuel. The higher percentage of a fuel a refiner blends with renewables, the easier it will be for the refiner to meet RFS requirements. Of the three fuel types addressed in this section (Ethanol, Biodiesel, and Advanced Biofuels), only Ethanol is scored (subsection 2(b)(i)) and has ever been scored for any refinery under the 2011 Study. Although the 2011 Study provided a scoring level for metrics 2(b)(ii) (Biodiesel) and 2(b)(iii) (Other Advanced Biofuel), the study notes that it was "reserved for later evaluation" and, in contrast to the Ethanol metric, did not provide explanatory text to inform the evaluation for these two metrics.<sup>5</sup> Because there is still little or no data collected on biodiesel and advanced biofuel blending at refineries needed for a comparison to determine if there is a disproportionate economic impact, these two metrics still are not scored.

Subsection 2(b)(i): This metric examines the percentage of the gasoline pool that is blended with ethanol. The 2011 Study provides that refineries with 75 percent or more of their gasoline blended to E10 were scored a zero, those with 25 to 74 percent of their gasoline blended to E10 were scored a five, those with less than 25 percent blended were scored a ten.<sup>6</sup>

**Refinery Score Explained**

# Ex. 4 CBI

*Section 2(c) – In a Niche Market*

This metric is intended to examine the ability of a refiner to enhance refining margins through either the lack of transportation fuel competition, low cost feedstock, or production of non-transportation fuel products.

As noted in the explanatory text on page 35 of the 2011 Study,<sup>7</sup> this metric was intended to determine if a refinery was in a "niche" market in that it has access to specific geographical markets with limited alternative finished product supply or access to distressed crude oil supply, thus creating potential for higher than industry refining margins for the niche refiner. Similarly, refineries classified as "niche" also are those that "produce a specialty slate of products (lube oils, greases, asphalt, etc.) in addition to gasoline and diesel." The sale of these types of products will also result in the potential for higher than industry refining margins.

The scoring levels for this metric are: Refineries in a niche market are scored a zero; those with a "moderate niche impact" are scored a five; and those without a niche market are scored a

<sup>5</sup> 2011 Study at 35.

<sup>6</sup> 2011 Study at 33.

<sup>7</sup> 2011 Study at 35.

## Pre-decisional/Deliberative Process

ten. The explanatory text also states that landlocked refiners whose immediate market does not have access to a refined product pipeline are scored a zero as are those whose primary products are not transportation fuels. Landlocked refiners with direct access to single pipeline are scored a five, and refiners with access to more than one pipeline are scored a ten.

## Refinery Score Explained

# Ex. 4 CBI

## Section 2(d) – RINs net revenue or cost

This metric was intended to determine whether RIN purchases or sales constitute a net revenue or cost, and a score of ten is awarded if RINs are a net cost or a score of zero if a net revenue generator. However, this metric was not scored in the 2011 Study because there was a “lack of consistency” among the responders to the DOE small refiner survey that was designed to evaluate this metric.<sup>8</sup> Because there was no information available to compare a refinery’s RIN cost/revenue with an industry average obtained from study of refineries’ data (rather than a study of national price data) to determine disproportionate economic hardship, this metric is not scored.

## Section 3

Although the 2011 Study only awarded potential scores of zero or ten for the section 3, DOE adopted an addendum to the study in May 2014, adding an intermediate score for metrics 3(a)<sup>9</sup> and 3(b)<sup>10</sup> in the viability index and reasoning that circumstances have changed since the 2011 study was completed. Generally, there is an improved business climate for refineries that is associated with the country’s economic recovery. In addition, refiners have now had many years since the initiation of the RFS program in 2007 to develop business practices to meet RFS obligations. In assisting EPA in evaluating petitions for small refinery RFS exemptions for 2013, DOE has found that some small refineries should be scored an intermediate level of 5 for metric 3a [whether compliance costs eliminate efficiency gains]. This intermediate score acknowledges an impact of RFS compliance costs on efficiency gains, but at a level lower than would justify a score of 10. DOE also has concluded that an intermediate score of 5 may be appropriate for viability metric 3b [individual special events causing a temporary negative impact] in certain circumstances. Both of these viability metrics address impacts that may

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<sup>8</sup> 2011 Study at 35.

<sup>9</sup> The 2011 Study provided for a score of zero if “no impact on efficiency” or ten if “impact on efficiency”. *Id.* at 36.

<sup>10</sup> The 2011 Study provided for a score of zero if “no special event” or ten if “special event impacting viability”. *Id.*

## Pre-decisional/Deliberative Process

occur across a continuum, and providing for the possibility of an intermediate score allows DOE to more accurately assess an individual refinery's economic situation.<sup>11</sup>

*Section 3(a) – Compliance Costs Eliminate Efficiency Gains (Impairment)*

As described in the 2011 Study, this metric evaluates whether the totality of factors, including both survey results and public information, would reduce the profitability of the firm enough to impair future efficiency improvements. While this would not lead to immediate shutdown, given the increasingly competitive refining market, significant constraints on efficiency improvements would eventually leave many small refineries at risk.

**Refinery Score Explained**

**Ex. 4 CBI**

*Section 3(b) – Individual Special Events*

This metric evaluates whether refinery-specific events (such as a shutdown due to an accident, and subsequent loss of revenue) in the recent past have a temporary negative impact on the ability of the refinery to comply with the RFS. If an event occurs that affects multiple refineries, it would not constitute a refinery-specific event that would have a *disproportionate* economic impact.

**Refinery Score Explained**

**Ex. 4 CBI**

*Section 3 (c) - Compliance Costs Likely to Lead to Shut-Down*

Some refineries have a unique vulnerability such as a weak competitive position and any significant additional burden could cause bankruptcy or closure. This metric covers those refineries indicating that compliance may lead to such an outcome. A score of ten is awarded if the refinery is "likely to shut down" or a score of zero if not.

<sup>11</sup> Office of Energy Policy and Systems Analysis, U.S. Dept. of Energy, *Addendum to the Small Refinery Study: An Investigation into Disproportionate Economic Hardship*, Available at: <https://www.epa.gov/sites/production/files/2016-12/documents/rfs2-small-refiner-study-addendum-05-2014.pdf> (May 2014) at 1.



Pre-decisional/Deliberative Process

Refinery Score Explained

**Ex. 4 CBI**

CONTAINS CONFIDENTIAL BUSINESS INFORMATION      PREDECISIONAL &amp; DELIBERATIVE

**DOE Application of the Small Refinery Scoring Matrix for the Sinclair Casper,  
Wyoming Refinery for Exemption as an Obligated Party under the Renewable Fuel  
Standard**

## **Background**

Section 211(o)(9)(A)(ii) of the CAA required that DOE conduct a study assessing whether the Renewable Fuel Standard (RFS) would impose a “disproportionate economic hardship” on small refineries.<sup>1</sup> This study was required to determine whether the blanket exemption for small refineries as obligated parties under the RFS should be extended for two years after 2010, the year that the blanket exemption expired. EPA was required to grant the continued exemption to all small refineries that were determined by DOE to experience “disproportionate economic hardship” if they became obligated parties after 2010.

In order to comply with the CAA, DOE developed a methodology to determine whether specific refineries would experience “disproportionate economic hardship.” The methodology required business information for the small refineries. This was acquired through a survey of all small refineries. This survey was sent to the owners of 59 refineries. DOE received data for 25 refineries but only analyzed the data for 18 of these refineries.<sup>2</sup> After completing the *Small Refinery Exemption Study*, it was provided by the Secretary of Energy to the EPA Administrator.

The CAA also requires that EPA consult with DOE concerning individual applications by small refineries for an exemption from RFS requirements.<sup>3</sup> In order to fulfill this requirement, DOE has applied the scoring matrix, developed for the Small Refinery Exemption Study, to refineries requesting an exemption. DOE employs information provided by EPA from the applicants’ request to see whether this refinery would have received an exemption based on the criteria used in the *Small Refinery Exemption Study*. This scoring matrix includes two general categories; a structural and economic index and a viability index that together are used to evaluate whether a refinery faced disproportionate economic hardship.

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<sup>1</sup> Small refineries are defined as those facilities with aggregate crude oil throughput that does not exceed 75,000 barrels per calendar day.

<sup>2</sup> Seven survey responses were not analyzed because the refineries for which the survey response was provided did not meet the CAA definition of a small refinery or because the survey response was incomplete.

<sup>3</sup> The CAA states “(B) Petitions based on disproportionate economic hardship; (i) Extension of exemption. A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.; (ii) Evaluation of petitions In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.; (iii) Deadline for action on petitions The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

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### **Sinclair Casper, Wyoming**

EPA consulted with DOE to aid in their assessment of whether the Sinclair Casper, Wyoming refinery should receive a RFS exemption for 2018. DOE is responding to EPA's request by providing values and an explanation for the scoring matrix for this refinery.

Based on the results from the DOE RFS small refinery exemption scoring matrix, described above, the Sinclair Casper Wyoming refinery received a score of Ex. 4 CBI in the structural and economic index and a score of Ex. 4 CBI in the viability index. Since the Sinclair Casper Wyoming refinery scored Ex. 4 CBI in the structural and economic index, DOE recommends that EPA consider providing Ex. 4 CBI percent exemption from the 2018 RFS.

CONTAINS CONFIDENTIAL BUSINESS INFORMATION      PREDECISIONAL & DELIBERATIVE

2018 Sinclair  
- Casper,  
WY

## Terms:

## Scoring

## Weighting

1 Structural		PADD	4
	0 = good access (BB- rating or above); 5 = moderate access (rating in B's below BB-); 10 = poor access (rating in C's or below; or D/E ≥ 50%)		
a Access to capital/credit			
b Other business lines besides refining & marketing	0 = other lines; 10 = no other lines		
c Market acceptance of renewables (Local)	0 = products accepted; 10 = product not accepted		
i E10	0 = high acceptance; 5 = some resistance		
ii E85	not scored because of small E85 volumes		
iii Biodiesel	not scored because of difficulty determining measurement		
d Percentage of diesel production	0 = $D/(G+D) \leq$ industry avg.; 5 = industry avg. < $D/(G+D) < 40\%$ ; 10 = $D/(G+D) \geq 40\%$		
e Subject to exceptional state regulations	0 = not subject; 5 = some additional barriers; 10 = subject to exceptional state regs		
2 Economic			
a Relative refining margin ranking	10 = Negative, 5 = Above 0 and Below 3 Year Industry Average, 0 = Above 3 Year Industry Average		
b Renewable fuel blending (% of production)			
i Ethanol blending	0 = 75%+, 5 = 25-74%, 10 = <25%		
ii Biodiesel blending (not used)	0 = 1.1% of diesel production, 1 = <1.1%		
iii Other Advanced Biofuel blending (not used)	0 = some blending, 10 = no blending		
c In a niche market	0 = niche 5 = moderate niche impact 10 = no niche		
d RINs net revenue or cost	0 = revenue > cost, 10 = revenue < cost		
Subtotal			
Average Subtotal			
Structural/Economic Index			
3 Viability			
a Compliance cost eliminates efficiency gains (impairment)	0 = no impact on efficiency, 5 = moderate impact 10 = impact on efficiency		
b Individual special events	0 = no special event, 5 = moderate event 10 = special event impacting viability		
c Compliance costs likely to lead to shut down	0 = not likely to shut down, 10 = likely to shut down		
Subtotal			
Average Subtotal			
Viability Index			

Ex. 4 CBI

## Pre-decisional/Deliberative Process

# Confidential Business Information

## Scoring Petitions for Small Refinery Exemption

### Sinclair Casper Refinery 2018

*Section 1(a) Access to Capital/Credit*

This section is scored with consideration of the credit rating of the refinery and the corporate entity. The purpose of this metric is to determine if a refinery has the ability to borrow and invest as may be needed to meet RFS requirements.

DOE scores companies with poor access to capital a ten, as demonstrated by an S&P (or equivalent) long-term credit rating of C's or below or a debt to equity ratio of 50 percent or above. If a company's credit rating in the B's below BB-, it is scored a five, or a zero if BB- or above.

**Refinery Score Explained****Ex. 4 CBI***Section 1(b) Other Lines of Business Besides Refining and Marketing*

Other lines of business are intended to help determine if a refiner has a portfolio of businesses that will lower the volatility of the refiner's earnings or if the refiner's profitability is solely dependent on transportation fuel margins. Much as diversifying a stock portfolio reduces the exposure to a single stock, diversifying business lines will reduce the exposure to a single revenue source (transportation fuels margins) for a refiner.

This section considers both the refinery level and the corporate level businesses. Consistent with the 2011 Study, DOE has always considered an applicant's additional lines of business, in particular upstream operations such as exploration and development that are less correlated with refining, that tend to smooth the firm's cash flows and improve its ability to borrow money at closer to investment grade rates.<sup>1</sup> Typically, exploration and production are not operated within the refinery level entity, but rather with an affiliated corporation, compelling inclusion of the affiliated businesses in the other business line analysis. Refineries with other lines of business score a zero, and those refineries without other lines of business score a ten.

**Refinery Score Explained****Ex. 4 CBI**

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<sup>1</sup> 2011 Study at 34.

## Pre-decisional/Deliberative Process

*Section 1(c) Local Acceptance of Renewables*

Section 1(c) was intended to address the local market consumer acceptance of a renewable fuel versus the national acceptance of that fuel. Consumer acceptance is indicated by retail sales, not by wholesales of products.<sup>2</sup> Thus, retail sales volumes are needed to show the consumer market acceptance of a fuel. Of the three fuels addressed in this section (E10, E85, and biodiesel), only the consumer market acceptance of E10 (subsection 1(c)(i)) is scored for any refinery under the 2011 Study because volumetric data for retail sales is not available at the local level or at the national level for E85 or biodiesel. Consequently, the narrative text on page 34 of the 2011 Study explained that metrics were only fully developed for E10, and specifically noted that scoring for E85 and Biodiesel was “Reserved for later evaluation.”

Subsection 1(c)(i): As described in the 2011 Study for E10 gasoline, refiners in high acceptance states (with 75 percent or greater E10 blending) score a zero, refiners who reside in states with less than 75 percent E10 blending receive a five, and those with less than 25 percent blending receive a ten. Currently, E10 is widely accepted in the retail gasoline market.<sup>3</sup>

**Refinery Score Explained**

# Ex. 4 CBI

*Section 1(d) – Percentage of Diesel Production*

This metric is intended to credit a refiner that makes a high percentage of its transportation fuel as diesel fuel. Compliance with the RFS requirements is more difficult than gasoline compliance. As noted in the 2011 Study, refineries that produce less than or equal to the industry average of approximately 32 percent diesel production receive a score of zero, those with greater than the industry average but less than 40 percent receive a score of five, and those at 40 percent diesel or above score a ten.

**Refinery Score Explained**

# Ex. 4 CBI

<sup>2</sup> See 2011 Study at 15.

<sup>3</sup> *Id.* (“Blends of petroleum-based gasoline with 10% ethanol, commonly referred to as E10, account for more than 95% of the fuel consumed in motor vehicles with gasoline engines.”).

## Pre-decisional/Deliberative Process

*Section 1(e) - Subject to Exceptional State Regulations*

This metric is intended to credit those refineries that are located in states that impose restrictive regulations that inhibit the ability of a refiner to meet RFS requirements. According to the 2011 Study,<sup>4</sup> certain states require refiners to sell unblended fuel. Refiners are required to purchase RINs to meet their obligations even though they have no blending opportunities with this fuel. Also, under certain unusual circumstances, the interplay between the State regulations (such as the California Low Carbon Fuel Standard) and the Federal RFS may increase compliance costs.

Those refineries subject to exceptional regulations receive a ten, those with some barriers for compliance are scored a five, and those not subject to exceptional state requirements are scored a zero.

**Refinery Score Explained****Ex. 4 CBI***Section 2(a) Relative Refining Margin*

As noted in the 2011 Study, refining margins differ from refiner to refiner for many reasons. To eliminate market volatility, a three-year average margin for all products is calculated for the petitioning refinery. This three-year average, supplied to DOE by EPA on an annual basis, is compared to the national three-year average margin for all products. Refineries with a negative net average margin are scored a ten, those below the industry average but with a non-negative net average margin are scored a five, and those at or above the industry average are scored a zero.

**Refinery Score Explained****Ex. 4 CBI***Section 2(b) Renewable Fuel Blending*

Section 2(b) is intended to measure an individual refinery's renewable fuel blending by examining the percentage of refinery production of a fuel type (gasoline or diesel) that is blended with a biofuel. The higher percentage of a fuel a refiner blends with renewables, the easier it will be for the refiner to meet RFS requirements. Of the three fuel types addressed in this section (Ethanol, Biodiesel, and Advanced Biofuels), only Ethanol is scored (subsection 2(b)(i)) and has ever been scored for any refinery under the 2011 Study. Although the 2011 Study provided a scoring level for metrics 2(b)(ii) (Biodiesel) and 2(b)(iii) (Other Advanced

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<sup>4</sup> 2011 Study at 34.

## Pre-decisional/Deliberative Process

Biofuel), the study notes that it was “reserved for later evaluation” and, in contrast to the Ethanol metric, did not provide explanatory text to inform the evaluation for these two metrics.<sup>5</sup> Because there is still little or no data collected on biodiesel and advanced biofuel blending at refineries needed for a comparison to determine if there is a disproportionate economic impact, these two metrics still are not scored.

Subsection 2(b)(i): This metric examines the percentage of the gasoline pool that is blended with ethanol. The 2011 Study provides that refineries with 75 percent or more of their gasoline blended to E10 were scored a zero, those with 25 to 74 percent of their gasoline blended to E10 were scored a five, those with less than 25 percent blended were scored a ten.<sup>6</sup>

## Refinery Score Explained

# Ex. 4 CBI

## *Section 2(c) – In a Niche Market*

This metric is intended to examine the ability of a refiner to enhance refining margins through either the lack of transportation fuel competition, low cost feedstock, or production of non-transportation fuel products.

As noted in the explanatory text on page 35 of the 2011 Study,<sup>7</sup> this metric was intended to determine if a refinery was in a “niche” market in that it has access to specific geographical markets with limited alternative finished product supply or access to distressed crude oil supply, thus creating potential for higher than industry refining margins for the niche refiner. Similarly, refineries classified as “niche” also are those that “produce a specialty slate of products (lube oils, greases, asphalt, etc.) in addition to gasoline and diesel.” The sale of these types of products will also result in the potential for higher than industry refining margins.

The scoring levels for this metric are: Refineries in a niche market are scored a zero; those with a “moderate niche impact” are scored a five; and those without a niche market are scored a ten. The explanatory text also states that landlocked refiners whose immediate market does not have access to a refined product pipeline are scored a zero as are those whose primary products are not transportation fuels. Landlocked refiners with direct access to single pipeline are scored a five, and refiners with access to more than one pipeline are scored a ten.

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<sup>5</sup> 2011 Study at 35.

<sup>6</sup> 2011 Study at 33.

<sup>7</sup> 2011 Study at 35.



## Pre-decisional/Deliberative Process

## Refinery Score Explained

# Ex. 4 CBI

## Section 2(d) – RINs net revenue or cost

This metric was intended to determine whether RIN purchases or sales constitute a net revenue or cost, and a score of ten is awarded if RINs are a net cost or a score of zero if a net revenue generator. However, this metric was not scored in the 2011 Study because there was a “lack of consistency” among the responders to the DOE small refiner survey that was designed to evaluate this metric.<sup>8</sup> Because there was no information available to compare a refinery’s RIN cost/revenue with an industry average obtained from study of refineries’ data (rather than a study of national price data) to determine disproportionate economic hardship, this metric is not scored.

## Section 3

Although the 2011 Study only awarded potential scores of zero or ten for the section 3, DOE adopted an addendum to the study in May 2014, adding an intermediate score for metrics 3(a)<sup>9</sup> and 3(b)<sup>10</sup> in the viability index and reasoning that

circumstances have changed since the 2011 study was completed. Generally, there is an improved business climate for refineries that is associated with the country’s economic recovery. In addition, refiners have now had many years since the initiation of the RFS program in 2007 to develop business practices to meet RFS obligations. In assisting EPA in evaluating petitions for small refinery RFS exemptions for 2013, DOE has found that some small refineries should be scored an intermediate level of 5 for metric 3a [whether compliance costs eliminate efficiency gains]. This intermediate score acknowledges an impact of RFS compliance costs on efficiency gains, but at a level lower than would justify a score of 10. DOE also has concluded that an intermediate score of 5 may be appropriate for viability metric 3b [individual special events causing a temporary negative impact] in certain circumstances. Both of these viability metrics address impacts that may occur across a continuum, and providing for the possibility of an intermediate score allows DOE to more accurately assess an individual refinery’s economic situation.<sup>11</sup>

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<sup>8</sup> 2011 Study at 35.

<sup>9</sup> The 2011 Study provided for a score of zero if “no impact on efficiency” or ten if “impact on efficiency”. *Id.* at 36.

<sup>10</sup> The 2011 Study provided for a score of zero if “no special event” or ten if “special event impacting viability”. *Id.*

<sup>11</sup> Office of Energy Policy and Systems Analysis, U.S. Dept. of Energy, *Addendum to the Small Refinery Study: An Investigation into Disproportionate Economic Hardship*, Available at:

## Pre-decisional/Deliberative Process

*Section 3(a) – Compliance Costs Eliminate Efficiency Gains (Impairment)*

As described in the 2011 Study, this metric evaluates whether the totality of factors, including both survey results and public information, would reduce the profitability of the firm enough to impair future efficiency improvements. While this would not lead to immediate shutdown, given the increasingly competitive refining market, significant constraints on efficiency improvements would eventually leave many small refineries at risk.

## Refinery Score Explained

**Ex. 4 CBI***Section 3(b) – Individual Special Events*

This metric evaluates whether refinery-specific events (such as a shutdown due to an accident, and subsequent loss of revenue) in the recent past have a temporary negative impact on the ability of the refinery to comply with the RFS. If an event occurs that affects multiple refineries, it would not constitute a refinery-specific event that would have a *disproportionate* economic impact.

## Refinery Score Explained

**Ex. 4 CBI***Section 3 (c) - Compliance Costs Likely to Lead to Shut-Down*

Some refineries have a unique vulnerability such as a weak competitive position and any significant additional burden could cause bankruptcy or closure. This metric covers those refineries indicating that compliance may lead to such an outcome. A score of ten is awarded if the refinery is “likely to shut down” or a score of zero if not.

---

<https://www.epa.gov/sites/production/files/2016-12/documents/rfs2-small-refiner-study-addendum-05-2014.pdf> (May 2014) at 1.

Pre-decisional/Deliberative Process

Refinery Score Explained

**Ex. 4 CBI**

## Message

**From:** Bunker, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DDF7BCF023D241A9A477A2DC75D5901C-BUNKER, BYRON]  
**Sent:** 1/7/2021 8:17:23 PM  
**To:** Cohen, Janet [cohen.janet@epa.gov]  
**CC:** 'Benjamin Hengst' [Hengst.Benjamin@epa.gov]; Nelson, Karen [nelson.karen@epa.gov]; Michaels, Lauren [Michaels.Lauren@epa.gov]; Gustafson, Kurt [Gustafson.Kurt@epa.gov]; McKenna, Chris [mckenna.chris@epa.gov]; Spencer, Mark [spencer.mark@epa.gov]; Parsons, Nick [Parsons.Nick@epa.gov]; Machiele, Paul [machiele.paul@epa.gov]; 'Weihrauch, John' [weihrauch.john@epa.gov]; Manners, Mary [manners.mary@epa.gov]; Burkholder, Dallas [burkholder.dallas@epa.gov]; Stahle, Susan [Stahle.Susan@epa.gov]; Dubey, Susmita [dubey.susmita@epa.gov]; Miller, Meredith [Miller.Meredith@epa.gov]  
**Subject:** FW: GAP petitions

**Attachments:****Ex. 4 CBI**

Ex. 4 CBI

DOE RFS SRE Findings

2019 Sinclair Casper Refinery.pdf; Ex. 4 CBI; DOE RFS SRE Findings 2019 Sinclair Rawlings.pdf;

Ex. 4 CBI

**Ex. 4 CBI**

\*\*\*\*\*

Byron Bunker  
 Director Compliance Division  
 Office of Transportation and Air Quality  
 Environmental Protection Agency  
 2000 Traverwood Drive  
 Ann Arbor, MI 48105  
 Bunker.Byron@epa.gov  
 Phone: (734) 214-4155  
 Mobile: (734) 353-9623  
 \*\*\*\*\*

## Message

**From:** Bunker, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DDF7BCF023D241A9A477A2DC75D5901C-BUNKER, BYRON]  
**Sent:** 1/7/2021 7:49:58 PM  
**To:** Stahle, Susan [Stahle.Susan@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Dubey, Susmita [dubey.susmita@epa.gov]  
**CC:** Benjamin Hengst [Hengst.Benjamin@epa.gov]  
**Subject:** Updated Recommendations for Sinclair 2019  
**Attachments:** Ex. 4 CBI DOE RFS SRE Findings 2019 Sinclair Casper Refinery.pdf; Ex. 4 CBI DOE RFS SRE Findings 2019 Sinclair Rawlings.pdf  
**Importance:** High

Hi Sue,

## Ex. 5 Deliberative Process (DP)

As a result, DOE is now recommending Ex. 4 CBI relief for both Sinclair refineries for 2019. The 2018 recommendation for Sinclair WY (Rawlings) Ex. 4 CBI

## Ex. 5 Deliberative Process (DP)

I am going to share all of the recommendations with the team, but I wanted to get this note to you in advance of the 3:30 meeting with OAR to help inform that discussion.

Thanks,

Byron

\*\*\*\*\*

Byron Bunker  
Director Compliance Division  
Office of Transportation and Air Quality  
Environmental Protection Agency

2000 Traverwood Drive

Ann Arbor, MI 48105

[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)

Phone: (734) 214-4155

Mobile: (734) 353-9623

\*\*\*\*\*

## Message

**From:** Bunker, Byron [bunker.byron@epa.gov]  
**Sent:** 1/7/2021 8:17:23 PM  
**To:** Cohen, Janet [cohen.janet@epa.gov]  
**CC:** Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Nelson, Karen [nelson.karen@epa.gov]; Michaels, Lauren [Michaels.Lauren@epa.gov]; Gustafson, Kurt [Gustafson.Kurt@epa.gov]; McKenna, Chris [McKenna.Chris@epa.gov]; Spencer, Mark [spencer.mark@epa.gov]; Parsons, Nick [Parsons.Nick@epa.gov]; Machiele, Paul [machiele.paul@epa.gov]; Weihrauch, John [Weihrauch.John@epa.gov]; Manners, Mary [manners.mary@epa.gov]; Burkholder, Dallas [burkholder.dallas@epa.gov]; Stahle, Susan [Stahle.Susan@epa.gov]; Dubey, Susmita [dubey.susmita@epa.gov]; Miller, Meredith [Miller.Meredith@epa.gov]  
**Subject:** FW: GAP petitions

**Attachments:****Ex. 4 CBI****Ex. 4 CBI**

DOE RFS SRE Findings

2019 Sinclair Casper Refinery.pdf; **Ex. 4 CBI** DOE RFS SRE Findings 2019 Sinclair Rawlings.pdf;**Ex. 4 CBI****Ex. 4 CBI**

\*\*\*\*\*

Byron Bunker  
 Director Compliance Division  
 Office of Transportation and Air Quality  
 Environmental Protection Agency  
 2000 Traverwood Drive  
 Ann Arbor, MI 48105  
 Bunker.Byron@epa.gov  
 Phone: (734) 214-4155  
 Mobile: (734) 353-9623

\*\*\*\*\*

**From:** [Piotrowski, Greg](#)  
**To:** [White, Thomas](#); [Cohen, Janet](#)  
**Cc:** [Nelson, Karen](#); [Boylan, Thomas](#); [Parsons, Nick](#); [Michaels, Lauren](#); [McKenna, Chris](#)  
**Subject:** FW: SCR Small Refinery Petition Documents  
**Date:** Wednesday, December 26, 2018 11:06:14 AM  
**Attachments:** ATT00001.txt  
 SCR!  
 SCR!  
 SCR!  
 SCR!  
 RFS-Sinclair\_Casper\_Refinery\_2018\_Petition-Final.docx

**Ex. 4 CBI**

Tom hello, another RFS small refinery hardship Sinclair submission that came in Friday, 2018 Casper refinery, EPA has acknowledged receipt,

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

*Gregory Piotrowski*

Chemical Engineer/Contracting Officer's Representative

Data Analysis & Information Center

Compliance Division, OTAQ, NVFEL

US Environmental Protection Agency

N15, 2000 Traverwood Drive

Ann Arbor, MI, USA 48105

Tel: 734.214.4493

Fax: 734.214.4869

email: [piotrowski.greg@epa.gov](mailto:piotrowski.greg@epa.gov)

**From:** Clint Ensign <[censign@sinclairoil.com](mailto:censign@sinclairoil.com)>

**Sent:** Friday, December 21, 2018 12:11 PM

**To:** Piotrowski, Greg <[piotrowski.greg@epa.gov](mailto:piotrowski.greg@epa.gov)>; Cohen, Janet <[cohen.janet@epa.gov](mailto:cohen.janet@epa.gov)>

**Cc:** Holmstead, Jeff ([jeff.holmstead@bracewell.com](mailto:jeff.holmstead@bracewell.com)) <[jeff.holmstead@bracewell.com](mailto:jeff.holmstead@bracewell.com)>; Pemberton, Brittany ([brittany.pemberton@bracewell.com](mailto:brittany.pemberton@bracewell.com)) <[brittany.pemberton@bracewell.com](mailto:brittany.pemberton@bracewell.com)>

**Subject:** FW: SCR Small Refinery Petition Documents

Dear Mr. Piotrowski and Ms. Cohen,

Attached is an electronic submission of the Sinclair Casper Refinery's petition for a Small Refinery Exemption from RFS standards for compliance year 2018. Please contact me if you have questions regarding this submission.

Sincerely,

**Clint W. Ensign**

Senior Vice President

THE SINCLAIR COMPANIES

550 East South Temple

Salt Lake City, UT 84102

(801) 524-2767

[censign@sinclairoil.com](mailto:censign@sinclairoil.com)





## Message

**From:** Nelson, Karen [nelson.karen@epa.gov]  
**Sent:** 3/25/2020 7:04:52 PM  
**To:** Cohen, Janet [cohen.janet@epa.gov]  
**CC:** Stahle, Susan [Stahle.Susan@epa.gov]  
**Subject:** Certified Index for 32 SREs - Missing Email  
**Attachments:** ATT00001.txt; SCR [Ex. 4 CBI]; SCR [Ex. 4 CBI]; SCR [Ex. 4 CBI]; SCR [Ex. 4 CBI].pdf; RFS-Sinclair\_Casper\_Refinery\_2018\_Petition-Final.docx

Hi Janet!

We're missing the initial petition submission email (the email at the bottom of this message) for Sinclair Casper. It appears that Jeff Holmstead sent it to both you and Greg. I couldn't find it in either the administrative record folder or the petition folder.

I was wondering if you wouldn't mind uploading it to either folder? Or saving to your hard drive and then sending that file to me and I can upload it?

Thanks!  
 -Karen

---

**From:** Piotrowski, Greg <piotrowski.greg@epa.gov>  
**Sent:** Wednesday, December 26, 2018 11:06 AM  
**To:** White, Thomas <Thomas.White@hq.doe.gov>; Cohen, Janet <cohen.janet@epa.gov>  
**Cc:** Nelson, Karen <nelson.karen@epa.gov>; Boylan, Thomas <boylan.thomas@epa.gov>; Parsons, Nick <Parsons.Nick@epa.gov>; Michaels, Lauren <Michaels.Lauren@epa.gov>; McKenna, Chris <McKenna.Chris@epa.gov>  
**Subject:** FW: SCR Small Refinery Petition Documents

Tom hello, another RFS small refinery hardship Sinclair submission that came in Friday, 2018 Casper refinery, EPA has acknowledged receipt, some 2018 financials included with the 3 years 2015-2017, I have not looked for the cash flow analysis or sufficiency yet, thanks, gp.

*Gregory Piotrowski*

Chemical Engineer/Contracting Officer's Representative  
 Data Analysis & Information Center  
 Compliance Division, OTAQ, NVFEL  
 US Environmental Protection Agency  
 N15, 2000 Traverwood Drive  
 Ann Arbor, MI, USA 48105  
 Tel: 734.214.4493  
 Fax: 734.214.4869  
 email: [piotrowski.greg@epa.gov](mailto:piotrowski.greg@epa.gov)

---

**From:** Clint Ensign <censign@sinclairoil.com>  
**Sent:** Friday, December 21, 2018 12:11 PM  
**To:** Piotrowski, Greg <piotrowski.greg@epa.gov>; Cohen, Janet <cohen.janet@epa.gov>  
**Cc:** Holmstead, Jeff (<jeff.holmstead@bracewell.com> <jeff.holmstead@bracewell.com>; Pemberton, Brittany (<brittany.pemberton@bracewell.com> <brittany.pemberton@bracewell.com>  
**Subject:** FW: SCR Small Refinery Petition Documents

Dear Mr. Piotrowski and Ms. Cohen,

Attached is an electronic submission of the Sinclair Casper Refinery's petition for a Small Refinery Exemption from RFS standards for compliance year 2018. Please contact me if you have questions regarding this submission.

Sincerely,

**Clint W. Ensign**

Senior Vice President  
THE SINCLAIR COMPANIES  
550 East South Temple  
Salt Lake City, UT 84102  
(801) 524-2767  
[censign@sinclairoil.com](mailto:censign@sinclairoil.com)



## Message

**From:** Cohen, Janet [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D94B854E69CD4F9E80DB946BF9D1C1B2-COHEN, JANET]  
**Sent:** 1/8/2020 4:05:19 PM  
**To:** Stahle, Susan [Stahle.Susan@epa.gov]  
**Subject:** FW: Sinclair-Wyoming RFS petition follow-up Q (2018 petition)  
**Attachments:** Rawlins gasoline & diesel destinations (complete).xlsx

Sue - fyi – here's some background Chris has shared:

**Ex. 5 Deliberative Process (DP)**

**From:** McKenna, Chris <McKenna.Chris@epa.gov>  
**Sent:** Wednesday, January 08, 2020 8:34 AM  
**To:** Bunker, Byron <bunker.byron@epa.gov>; Cohen, Janet <cohen.janet@epa.gov>  
**Subject:** FW: Sinclair-Wyoming RFS petition follow-up Q (2018 petition)

Byron,

**Ex. 5 Deliberative Process (DP) / Ex. 4 CBI**

Please let me know any questions.

Thanks,  
Chris

**From:** McKenna, Chris  
**Sent:** Monday, October 28, 2019 10:05 AM  
**To:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>  
**Cc:** Barry Schaps <[BSchaps@stillwaterassociates.com](mailto:BSchaps@stillwaterassociates.com)>  
**Subject:** FW: Rawlins RFS petition follow-up Q (2018 petition)

Tom,

Following up on our discussion last week about:

**Ex. 5 Deliberative Process (DP) / Ex. 4 CBI****Ex. 5 Deliberative Process (DP) / Ex. 4 CBI**

Please let me know any questions.

Thanks very much,  
Chris

---

**From:** Clint Ensign <[censign@sinclairoil.com](mailto:censign@sinclairoil.com)>  
**Sent:** Tuesday, May 28, 2019 12:47 PM  
**To:** McKenna, Chris <[McKenna.Chris@epa.gov](mailto:McKenna.Chris@epa.gov)>  
**Subject:** Re: Rawlins RFS petition follow-up Q

Chris,

**Ex. 4 CBI**

Sent from my iPhone

On May 21, 2019, at 2:08 PM, McKenna, Chris <[McKenna.Chris@epa.gov](mailto:McKenna.Chris@epa.gov)> wrote:

Thanks very much, I appreciate it.

---

**From:** Clint Ensign <[censign@sinclairoil.com](mailto:censign@sinclairoil.com)>  
**Sent:** Tuesday, May 21, 2019 4:07 PM  
**To:** McKenna, Chris <[McKenna.Chris@epa.gov](mailto:McKenna.Chris@epa.gov)>  
**Subject:** Re: Rawlins RFS petition follow-up Q

Chris, I've requested the info you wanted and will get back to you soon. Clint

Sent from my iPhone

On May 20, 2019, at 7:39 AM, McKenna, Chris <[McKenna.Chris@epa.gov](mailto:McKenna.Chris@epa.gov)> wrote:

Clint,

Thanks very much for pulling this together, it's very helpful. One more long-shot question

**Ex. 4 CBI**

**Ex. 4 CBI**

**Ex. 6 Personal Privacy (PP)**

It has certainly been a pleasure dealing with you, I appreciate how helpful you have always been in answering my questions.

Re: SRE decisions, we (at the staff level) are still waiting for input from our management on how they want to proceed with the 2018 petitions. I don't know when we'll be hearing from our management, but I sure hope it is soon.

Thanks again for all your help and **Ex. 6 Personal Privacy (PP)**  
Chris

-----Original Message-----

From: Clint Ensign <[censign@sinclairoil.com](mailto:censign@sinclairoil.com)>  
Sent: Friday, May 17, 2019 3:50 PM

To: McKenna, Chris <McKenna.Chris@epa.gov>  
Subject: RE: Rawlins RFS petition follow-up Q

Chris,

Attached is the Excel spreadsheet information you requested. It is consistent with information we provided to EPA on the DOE Refinery Survey Form PI-588 (Items 4.2, 4.3 and 4.4) and information provided on page 8 of our written petition for the Sinclair Wyoming Refinery.

# Ex. 4 CBI

On a personal note

**Ex. 6 Personal Privacy (PP)**

**Ex. 6 Personal Privacy (PP)**

**Ex. 6 Personal Privacy (PP)** Until a candidate is in place, I am still doing some work for the company, including RFS related issues. I've sincerely enjoyed working with you, and the very fine EPA folks I have had the pleasure to work with in Ann Arbor and Washington, D.C. My email account with Sinclair will remain open until the end of June at which time **Ex. 6 Personal Privacy (PP)**

**Ex. 6 Personal Privacy (PP)** I will continue to be your Sinclair contact until then--at which time I'll be back to in touch with you on a new Sinclair contact.

Finally, I saw today that the U.S. Court of Appeals for the District of Columbia Circuit has denied the Advanced Biofuel Association's request for a preliminary injunction to limit EPA's ability to grant small refinery exemptions for the 2018 compliance year. Now that this matter is resolved, can you shed any light on when you believe EPA will issue 2018 SRE decisions?

My best to you,

Clint W. Ensign

Senior Vice President  
THE SINCLAIR COMPANIES  
550 East South Temple  
Salt Lake City, UT 84102  
(801) 524-2767  
[censign@sinclairoil.com](mailto:censign@sinclairoil.com)

-----Original Message-----

From: McKenna, Chris [mailto:McKenna.Chris@epa.gov]

Sent: Friday, May 17, 2019 7:04 AM

To: Clint Ensign

Subject: Rawlins RFS petition follow-up Q

Clint,

I wanted to check if you could provide some additional info on where the gasoline and diesel produced at Rawlins is sent, on a bpd basis - would you please complete the attached spreadsheet, to the extent possible. The flowrates don't have to be exact, approximate numbers that would be fine.

My goal is to better understand where all of Rawlins' gasoline and diesel winds up being sold.

Ex. 4 CBI

Ex. 4 CBI

Ex. 4 CBI

but whatever info you can provide would be helpful.

**Ex. 4 CBI**

Hope this makes sense, please let me know any questions

Thanks very much,  
Chris (202-343-9037)

## Message

**From:** Cohen, Janet [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D94B854E69CD4F9E80DB946BF9D1C1B2-COHEN, JANET]  
**Sent:** 12/8/2020 1:59:27 PM  
**To:** Dubey, Susmita [dubey.susmita@epa.gov]; McKenna, Chris [mckenna.chris@epa.gov]; Michaels, Lauren [Michaels.Lauren@epa.gov]; Miller, Meredith [Miller.Meredith@epa.gov]; Nelson, Karen [nelson.karen@epa.gov]; Parsons, Nick [Parsons.Nick@epa.gov]; Spencer, Mark [spencer.mark@epa.gov]; Stahle, Susan [Stahle.Susan@epa.gov]; Weihrauch, John [Weihrauch.John@epa.gov]  
**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins  
**Attachments:** Letter to Under Secretary Menezes on request for reconsideration (signed).pdf; Rawlins gasoline & diesel destinations (complete).xlsx; SWR Exhibits.pdf; Stillwater Associates - DOE scoring for Sinclair Wyoming Refinery Reviewed 20201206.xlsx; RFS Sinclair\_Wyoming\_Refinery\_2018\_Petition Final.docx

For discussion today

---

**From:** White, Thomas <thomas.white@hq.doe.gov>  
**Sent:** Tuesday, December 8, 2020 8:47 AM  
**To:** Cohen, Janet <cohen.janet@epa.gov>; McKenna, Chris <McKenna.Chris@epa.gov>; Bunker, Byron <bunker.byron@epa.gov>  
**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

Janet, Chris and Byron,

## Ex. 5 Deliberative Process (DP) / Ex. 4 (CBI)

Tom

---

**From:** Powell, John  
**Sent:** Sunday, December 06, 2020 11:03 PM  
**To:** White, Thomas <thomas.white@hq.doe.gov>  
**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

For review and for the folder.

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Barry Schaps <BSchaps@stillwaterassociates.com>  
**Date:** Sunday, Dec 06, 2020, 10:22 PM  
**To:** Powell, John <john.powell@hq.doe.gov>  
**Subject:** [EXTERNAL] Sinclair Wyoming Rawlins



## Ex. 5 Deliberative Process (DP) / Ex. 4 CBI

Barry Schaps

Ex. 6 Personal Privacy (PP)

---

**From:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>

**Sent:** Sunday, December 06, 2020 11:19 AM

**To:** Barry Schaps Ex. 6 Personal Privacy (PP)

**Subject:** Sinclair 2018

Barry,

The Sinclair 2018 should be the top SRE priority.

Ex. 4 CBI

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

\*\*\*\*\*

This message does not originate from a known Department of Energy email system.  
Use caution if this message contains attachments, links or requests for information.

\*\*\*\*\*

## Message

**From:** Cohen, Janet [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D94B854E69CD4F9E80DB946BF9D1C1B2-COHEN, JANET]  
**Sent:** 12/7/2020 2:51:27 PM  
**To:** Stahle, Susan [Stahle.Susan@epa.gov]; Dubey, Susmita [dubey.susmita@epa.gov]  
**Subject:** FW: sinclair 2019  
**Attachments:** DOE RFS SRE Findings 2019 Sinclair Casper Refinery.pdf; DOE RFS SRE Findings 2019 Sinclair Rawlings.pdf

fyi

-----Original Message-----

From: Bunker, Byron <bunker.byron@epa.gov>  
 Sent: Friday, December 4, 2020 3:37 PM  
 To: Cohen, Janet <cohen.janet@epa.gov>  
 Cc: Nelson, Karen <nelson.karen@epa.gov>; McKenna, Chris <McKenna.Chris@epa.gov>; Parsons, Nick <Parsons.Nick@epa.gov>  
 Subject: FW: sinclair 2019

\*\*\*\*\*

Byron Bunker  
 Director Compliance Division  
 Office of Transportation and Air Quality Environmental Protection Agency  
 2000 Traverwood Drive  
 Ann Arbor, MI 48105  
 Bunker.Byron@epa.gov  
 Phone: (734) 214-4155  
 Mobile: (734) 353-9623  
 \*\*\*\*\*

-----Original Message-----

From: Dominguez, Alexander <dominguez.alexander@epa.gov>  
 Sent: Friday, December 04, 2020 1:19 PM  
 To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Bunker, Byron <bunker.byron@epa.gov>  
 Cc: Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>  
 Subject: FW: sinclair 2019

-----Original Message-----

From: Powell, John <john.powell@hq.doe.gov>  
 Sent: Friday, December 4, 2020 1:11 PM  
 To: gunasekara.mandt@epa.gov  
 Cc: Idsal, Anne <idsal.anne@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>  
 Subject: sinclair 2019

Sinclair 2019 FYI

John Powell  
 Senior Advisor to the Secretary  
 U.S. Department of Energy  
 1000 Independence Ave., SW  
 Washington, DC 20585  
 202-586-1814 Mobile: Ex. 6 Personal Privacy (PP)  
 John.powell@hq.doe.gov

**Ex. 6 Personal Privacy (PP)**

## DOE Application of the Small Refinery Scoring Matrix for the Sinclair Wyoming Refinery for Exemption as an Obligated Party under the Renewable Fuel Standard

### Background

Section 211(o)(9)(A)(ii) of the CAA required that DOE conduct a study assessing whether the Renewable Fuel Standard (RFS) would impose a “disproportionate economic hardship” on small refineries<sup>1</sup>. This study was required to determine whether the blanket exemption for small refineries as obligated parties under the RFS should be extended for two years after 2010, the year that the blanket exemption expired. EPA was required to grant the continued exemption to all small refineries that were determined by DOE to experience “disproportionate economic hardship” if they became obligated parties after 2010.

In order to comply with the CAA, DOE developed a methodology to determine whether specific refineries would experience “disproportionate economic hardship.” The methodology required business information for the small refineries. This was acquired through a survey of all small refineries. This survey was sent to the owners of 59 refineries. DOE received data for 25 refineries but only analyzed the data for 18 of these refineries<sup>2</sup>. After completing the *Small Refinery Exemption Study* it was provided by the Secretary of Energy to the EPA Administrator.

The CAA also requires that EPA consult with DOE concerning individual applications by small refineries for an exemption from RFS requirements.<sup>3</sup> In order to fulfill this requirement, DOE has applied the scoring matrix, developed for the Small Refinery Exemption Study, to refineries requesting an exemption. DOE employs information provided by EPA from the applicants’ request to see whether this refinery would have received an exemption based on the criteria used in the *Small Refinery Exemption Study*. This scoring matrix includes two general categories; a structural and economic metric and a viability metric that together are used to evaluate whether a refinery faced disproportionate economic hardship.

---

<sup>1</sup> Small refineries are defined as those facilities with aggregate crude oil throughput that does not exceed 75,000 barrels per calendar day.

<sup>2</sup> Seven survey responses were not analyzed because the refineries for which the survey response was provided did not meet the CAA definition of a small refinery or because the survey response was incomplete.

<sup>3</sup> The CAA states “(B) Petitions based on disproportionate economic hardship; (i) Extension of exemption. A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.; (ii) Evaluation of petitions In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.; (iii) Deadline for action on petitions The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

## Sinclair Rawlings, Wyoming Refinery

EPA consulted with DOE to aid in their assessment of whether the Sinclair Rawlings Wyoming refinery should receive a RFS exemption for 2018. DOE is responding to EPA's request by providing values and an explanation for the scoring matrix for this refinery. This evaluation replaces the score provided to EPA in 2019. Sinclair provided additional information concerning volumes of fuel sales in other markets to clarify data provided in their initial petition. This new data was provided to EPA in October of 2019. Additionally Sinclair provided even more information to DOE in January of 2020.

Based on the results from the DOE RFS small refinery exemption scoring matrix, described above, the Sinclair refinery received a score of **Ex. 4 CBI** in the structural and economic index and a score of **Ex. 4 CBI** in the viability index.

Since the Sinclair Rawlings Wyoming refinery scored **Ex. 4 CBI** in the structural and economic index, **Ex. 4 CBI** in the viability index, DOE findings are that EPA consider providing **Ex. 4 CBI** percent exemption from the 2018 RFS<sup>4</sup>.

---

<sup>4</sup> This is in accordance with DOE's fiscal year 2016 appropriations bill that directs the Secretary of Energy to recommend to the EPA Administrator a 50 percent exemption of the RFS requirements for the petitioner that scores above a 1.0 on either the structural and economic metric or viability metric used in evaluating disproportionate economic hardship.

			2018 Sinclair Wyoming Refining - REVISED	
Terms:	Scoring	Weighting		
1 Structural		PADD	4	
a Access to capital/credit	0 = Good Access (BB- rating or above), 5 = Moderate Access (rating in B's) 10 = Poor Access (C Rating or below)		<div></div>	
b Other business lines besides refining & marketing	0 = Other Lines, 10 = No Other Lines			
c Market acceptance of renewables (Local)	0 = Products Accepted, 10 = Product not accepted			
i E10	0 = High acceptance, 5 = some resistance			
ii E85	Not scored because of small E85 volumes			
iii Biodiesel	Not scored because of difficulty determining measurement			
d Percentage of diesel production	0 = D/(G+D) < Industry Avg. 5 D/(G+D) < 40 % 10 = D/(G+D) > 40		<div></div>	
e Subject to exceptional state regulations	0 = not subject, Some additional barriers 10 = subject to exceptional state regs			
2 Economic				
a Relative refining margin ranking	10 = Negative, 5 = Above 0 and Below 3 Year Industry Average, 0 = Above 3 Year Industry			
b Renewable fuel blending (% of production)				
i Ethanol blending	0 = 75%+, 5 = 25-74%, 10 = <25%			
ii Biodiesel blending (not used)	0 = 1.1% of diesel production, 1 = <1.1%			
iii Other Advanced Biofuel blending (not used)	0 = some blending, 10 = no blending			
c In a niche market	0 = niche 5 = moderate niche impact 10 = no niche			
d RINs net revenue or cost	0 = revenue > cost, 10 = revenue < cost			
Subtotal				
Average Subtotal		50%		
3 Viability				
a Compliance cost eliminates efficiency gains (impairment)	0 = no impact on efficiency, 5 = moderate impact 10 = impact on efficiency			
b Individual special events	0 = no special event, 5= moderate event 10 = special event impacting viability			
c Compliance costs likely to lead to shut down	0 = not likely to shut down, 10 = likely to shut down			
Subtotal				
Average Subtotal		50%		
Total				

## Pre-decisional/Deliberative Process

## Confidential Business Information

### Scoring Petitions for Small Refinery Exemption

#### Sinclair Wyoming Refinery 2018

*Section 1(a) Access to Capital/Credit*

This section is scored with consideration of the credit rating of the refinery and the corporate entity. The purpose of this metric is to determine if a refinery has the ability to borrow and invest as may be needed to meet RFS requirements.

DOE scores companies with poor access to capital a ten, as demonstrated by an S&P (or equivalent) long-term credit rating of C's or below or a debt to equity ratio of 50 percent or above. If a company's credit rating in the B's below BB-, it is scored a five, or a zero if BB- or above.

**Refinery Score Explained**

# Ex. 4 CBI

*Section 1(b) Other Lines of Business Besides Refining and Marketing*

Other lines of business are intended to help determine if a refiner has a portfolio of businesses that will lower the volatility of the refiner's earnings or if the refiner's profitability is solely dependent on transportation fuel margins. Much as diversifying a stock portfolio reduces the exposure to a single stock, diversifying business lines will reduce the exposure to a single revenue source (transportation fuels margins) for a refiner.

This section considers both the refinery level and the corporate level businesses. Consistent with the 2011 Study, DOE has always considered an applicant's additional lines of business, in particular upstream operations such as exploration and development that are less correlated with refining, that tend to smooth the firm's cash flows and improve its ability to borrow money at closer to investment grade rates.<sup>1</sup> Typically, exploration and production are not operated within the refinery level entity, but rather with an affiliated corporation, compelling inclusion of the affiliated businesses in the other business line analysis. Refineries with other lines of business score a zero, and those refineries without other lines of business score a ten.

**Refinery Score Explained**

# Ex. 4 CBI

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<sup>1</sup> 2011 Study at 34.

## Pre-decisional/Deliberative Process

*Section 1(c) Local Acceptance of Renewables*

Section 1(c) was intended to address the local market consumer acceptance of a renewable fuel versus the national acceptance of that fuel. Consumer acceptance is indicated by retail sales, not by wholesales of products.<sup>2</sup> Thus, retail sales volumes are needed to show the consumer market acceptance of a fuel. Of the three fuels addressed in this section (E10, E85, and biodiesel), only the consumer market acceptance of E10 (subsection 1(c)(i)) is scored for any refinery under the 2011 Study because volumetric data for retail sales is not available at the local level or at the national level for E85 or biodiesel. Consequently, the narrative text on page 34 of the 2011 Study explained that metrics were only fully developed for E10, and specifically noted that scoring for E85 and Biodiesel was “Reserved for later evaluation.”

Subsection 1(c)(i): As described in the 2011 Study for E10 gasoline, refiners in high acceptance states (with 75 percent or greater E10 blending) score a zero, refiners who reside in states with less than 75 percent E10 blending receive a five, and those with less than 25 percent blending receive a ten. Currently, E10 is widely accepted in the retail gasoline market.<sup>3</sup>

**Refinery Score Explained****Ex. 4 CBI***Section 1(d) – Percentage of Diesel Production*

This metric is intended to credit a refiner that makes a high percentage of its transportation fuel as diesel fuel. Compliance with the RFS requirements is more difficult than gasoline compliance. As noted in the 2011 Study, refineries that produce less than or equal to the industry average of approximately 32 percent diesel production receive a score of zero, those with greater than the industry average but less than 40 percent receive a score of five, and those at 40 percent diesel or above score a ten.

**Refinery Score Explained****Ex. 4 CBI**

<sup>2</sup> See 2011 Study at 15.

<sup>3</sup> *Id.* (“Blends of petroleum-based gasoline with 10% ethanol, commonly referred to as E10, account for more than 95% of the fuel consumed in motor vehicles with gasoline engines.”).



## Pre-decisional/Deliberative Process

*Section 1(e) - Subject to Exceptional State Regulations*

This metric is intended to credit those refineries that are located in states that impose restrictive regulations that inhibit the ability of a refiner to meet RFS requirements. According to the 2011 Study,<sup>4</sup> certain states require refiners to sell unblended fuel. Refiners are required to purchase RINs to meet their obligations even though they have no blending opportunities with this fuel. Also, under certain unusual circumstances, the interplay between the State regulations (such as the California Low Carbon Fuel Standard) and the Federal RFS may increase compliance costs.

Those refiners subject to exceptional regulations receive a ten, those with some barriers for compliance are scored a five, and those not subject to exceptional state requirements are scored a zero.

**Refinery Score Explained****Ex. 4 CBI***Section 2(a) Relative Refining Margin*

As noted in the 2011 Study, refining margins differ from refiner to refiner for many reasons. To eliminate market volatility, a three-year average margin for all products is calculated for the petitioning refinery. This three-year average, supplied to DOE by EPA on an annual basis, is compared to the national three-year average margin for all products. Refineries with a negative net average margin are scored a ten, those below the industry average but with a non-negative net average margin are scored a five, and those at or above the industry average are scored a zero.

**Refinery Score Explained****Ex. 4 CBI***Section 2(b) Renewable Fuel Blending*

Section 2(b) is intended to measure an individual refinery's renewable fuel blending by examining the percentage of refinery production of a fuel type (gasoline or diesel) that is blended with a biofuel. The higher percentage of a fuel a refiner blends with renewables, the easier it will be for the refiner to meet RFS requirements. Of the three fuel types addressed in this section (Ethanol, Biodiesel, and Advanced Biofuels), only Ethanol is scored (subsection 2(b)(i)) and has ever been scored for any refinery under the 2011 Study. Although the 2011 Study provided a scoring level for metrics 2(b)(ii) (Biodiesel) and 2(b)(iii) (Other Advanced

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<sup>4</sup> 2011 Study at 34.

## Pre-decisional/Deliberative Process

Biofuel), the study notes that it was “reserved for later evaluation” and, in contrast to the Ethanol metric, did not provide explanatory text to inform the evaluation for these two metrics.<sup>5</sup> Because there is still little or no data collected on biodiesel and advanced biofuel blending at refineries needed for a comparison to determine if there is a disproportionate economic impact, these two metrics still are not scored.

Subsection 2(b)(i): This metric examines the percentage of the gasoline pool that is blended with ethanol. The 2011 Study provides that refineries with 75 percent or more of their gasoline blended to E10 were scored a zero, those with 25 to 74 percent of their gasoline blended to E10 were scored a five, those with less than 25 percent blended were scored a ten.<sup>6</sup>

## Refinery Score Explained

**Ex. 4 CBI***Section 2(c) – In a Niche Market*

This metric is intended to examine the ability of a refiner to enhance refining margins through either the lack of transportation fuel competition, low cost feedstock, or production of non-transportation fuel products.

As noted in the explanatory text on page 35 of the 2011 Study,<sup>7</sup> this metric was intended to determine if a refinery was in a “niche” market in that it has access to specific geographical markets with limited alternative finished product supply or access to distressed crude oil supply, thus creating potential for higher than industry refining margins for the niche refiner. Similarly, refineries classified as “niche” also are those that “produce a specialty slate of products (lube oils, greases, asphalt, etc.) in addition to gasoline and diesel.” The sale of these types of products will also result in the potential for higher than industry refining margins.

The scoring levels for this metric are: Refineries in a niche market are scored a zero; those with a “moderate niche impact” are scored a five; and those without a niche market are scored a ten. The explanatory text also states that landlocked refiners whose immediate market does not have access to a refined product pipeline are scored a zero as are those whose primary products are not transportation fuels. Landlocked refiners with direct access to single pipeline are scored a five, and refiners with access to more than one pipeline are scored a ten.

## Refinery Score Explained

**Ex. 4 CBI**

<sup>5</sup> 2011 Study at 35.

<sup>6</sup> 2011 Study at 33.

<sup>7</sup> 2011 Study at 35.

## Pre-decisional/Deliberative Process

## Section 2(d) – RINs net revenue or cost

This metric was intended to determine whether RIN purchases or sales constitute a net revenue or cost, and a score of ten is awarded if RINs are a net cost or a score of zero if a net revenue generator. However, this metric was not scored in the 2011 Study because there was a “lack of consistency” among the responders to the DOE small refiner survey that was designed to evaluate this metric.<sup>8</sup> Because there was no information available to compare a refinery’s RIN cost/revenue with an industry average obtained from study of refineries’ data (rather than a study of national price data) to determine disproportionate economic hardship, this metric is not scored.

## Section 3

Although the 2011 Study only awarded potential scores of zero or ten for the section 3, DOE adopted an addendum to the study in May 2014, adding an intermediate score for metrics 3(a)<sup>9</sup> and 3(b)<sup>10</sup> in the viability index and reasoning that circumstances have changed since the 2011 study was completed. Generally, there is an improved business climate for refineries that is associated with the country’s economic recovery. In addition, refiners have now had many years since the initiation of the RFS program in 2007 to develop business practices to meet RFS obligations. In assisting EPA in evaluating petitions for small refinery RFS exemptions for 2013, DOE has found that some small refineries should be scored an intermediate level of 5 for metric 3a [whether compliance costs eliminate efficiency gains]. This intermediate score acknowledges an impact of RFS compliance costs on efficiency gains, but at a level lower than would justify a score of 10. DOE also has concluded that an intermediate score of 5 may be appropriate for viability metric 3b [individual special events causing a temporary negative impact] in certain circumstances. Both of these viability metrics address impacts that may occur across a continuum, and providing for the possibility of an intermediate score allows DOE to more accurately assess an individual refinery’s economic situation.<sup>11</sup>

*Section 3(a) – Compliance Costs Eliminate Efficiency Gains (Impairment)*

As described in the 2011 Study, this metric evaluates whether the totality of factors, including both survey results and public information, would reduce the profitability of the firm enough to impair future efficiency improvements. While this would not lead to immediate shutdown, given the increasingly competitive refining market, significant constraints on efficiency improvements would eventually leave many small refineries at risk.

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<sup>8</sup> 2011 Study at 35.

<sup>9</sup> The 2011 Study provided for a score of zero if “no impact on efficiency” or ten if “impact on efficiency”. *Id.* at 36.

<sup>10</sup> The 2011 Study provided for a score of zero if “no special event” or ten if “special event impacting viability”. *Id.*

<sup>11</sup> Office of Energy Policy and Systems Analysis, U.S. Dept. of Energy, *Addendum to the Small Refinery Study: An Investigation into Disproportionate Economic Hardship*, Available at: <https://www.epa.gov/sites/production/files/2016-12/documents/rfs2-small-refiner-study-addendum-05-2014.pdf> (May 2014) at 1.

## Pre-decisional/Deliberative Process

## Refinery Score Explained

**Ex. 4 CBI***Section 3(b) – Individual Special Events*

This metric evaluates whether refinery-specific events (such as a shutdown due to an accident, and subsequent loss of revenue) in the recent past have a temporary negative impact on the ability of the refinery to comply with the RFS. If an event occurs that affects multiple refineries, it would not constitute a refinery-specific event that would have a *disproportionate* economic impact.

## Refinery Score Explained

**Ex. 4 CBI***Section 3 (c) - Compliance Costs Likely to Lead to Shut-Down*

Some refineries have a unique vulnerability such as a weak competitive position and any significant additional burden could cause bankruptcy or closure. This metric covers those refineries indicating that compliance may lead to such an outcome. A score of ten is awarded if the refinery is “likely to shut down” or a score of zero if not.

## Refinery Score Explained

**Ex. 4 CBI**

## Message

**From:** McKenna, Chris [McKenna.Chris@epa.gov]  
**Sent:** 12/8/2020 2:46:35 PM  
**To:** White, Thomas [thomas.white@hq.doe.gov]  
**CC:** Cohen, Janet [cohen.janet@epa.gov]; Bunker, Byron [bunker.byron@epa.gov]  
**Subject:** RE: Sinclair-Rawlins 2018 SRE rescore (OLB score typo)

OK, thanks again for the clarification.

**Ex. 5 Deliberative Process (DP)****Ex. 5 Deliberative Process (DP)**

---

**From:** White, Thomas <thomas.white@hq.doe.gov>  
**Sent:** Tuesday, December 08, 2020 9:35 AM  
**To:** McKenna, Chris <McKenna.Chris@epa.gov>  
**Subject:** RE: Sinclair Wyoming Rawlins

Hi Chris,

This is not the final version. It is an interim version. The final version will have the correction in it.

Thanks,  
Tom

---

**From:** McKenna, Chris [mailto:McKenna.Chris@epa.gov]  
**Sent:** Tuesday, December 08, 2020 9:33 AM  
**To:** White, Thomas <thomas.white@hq.doe.gov>  
**Subject:** [EXTERNAL] RE: Sinclair Wyoming Rawlins

Thanks for the clarification - please send us a revised version.

---

**From:** White, Thomas <thomas.white@hq.doe.gov>  
**Sent:** Tuesday, December 08, 2020 9:31 AM  
**To:** McKenna, Chris <McKenna.Chris@epa.gov>  
**Subject:** RE: Sinclair Wyoming Rawlins

**Ex. 5 Deliberative Process (DP)**

---

**From:** McKenna, Chris [mailto:McKenna.Chris@epa.gov]  
**Sent:** Tuesday, December 08, 2020 9:26 AM  
**To:** White, Thomas <thomas.white@hq.doe.gov>  
**Subject:** [EXTERNAL] RE: Sinclair Wyoming Rawlins

Tom,

**Ex. 5 Deliberative Process (DP)**

Is that correct?

Thanks again,  
Chris

---

**From:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>

**Sent:** Tuesday, December 08, 2020 8:47 AM

**To:** Cohen, Janet <[cohen.janet@epa.gov](mailto:cohen.janet@epa.gov)>; McKenna, Chris <[McKenna.Chris@epa.gov](mailto:McKenna.Chris@epa.gov)>; Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>

**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

Janet, Chris and Byron,

## Ex. 5 Deliberative Process (DP)

Tom

---

**From:** Powell, John

**Sent:** Sunday, December 06, 2020 11:03 PM

**To:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>

**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

For review and for the folder.

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Barry Schaps <[BSchaps@stillwaterassociates.com](mailto:BSchaps@stillwaterassociates.com)>

**Date:** Sunday, Dec 06, 2020, 10:22 PM

**To:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>

**Subject:** [EXTERNAL] Sinclair Wyoming Rawlins

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Barry Schaps

Ex. 6 Personal Privacy (PP)

Ex. 6 Personal Privacy (PP)

---

**From:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>

**Sent:** Sunday, December 06, 2020 11:19 AM

**To:** Barry Schaps <[Ex. 6 Personal Privacy \(PP\)](#)>

**Subject:** Sinclair 2018

Barry,

## Ex. 5 Deliberative Process (DP)

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

## Message

**From:** Bunker, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DDF7BCF023D241A9A477A2DC75D5901C-BUNKER, BYRON]  
**Sent:** 12/8/2020 2:51:53 PM  
**To:** White, Thomas [thomas.white@hq.doe.gov]; Cohen, Janet [cohen.janet@epa.gov]; McKenna, Chris [mckenna.chris@epa.gov]  
**Subject:** RE: [EXTERNAL] Deliberative - Sinclair Wyoming Rawlins

Got it. Sorry, I had misread the previous note **Ex. 5 Deliberative Process (DP) / ex.4 (CBI)**

Thanks,

Byron

\*\*\*\*\*

Byron Bunker  
Director Compliance Division  
Office of Transportation and Air Quality  
Environmental Protection Agency  
2000 Traverwood Drive  
Ann Arbor, MI 48105  
[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)  
Phone: (734) 214-4155  
Mobile: (734) 353-9623

\*\*\*\*\*

---

**From:** White, Thomas <thomas.white@hq.doe.gov>  
**Sent:** Tuesday, December 08, 2020 9:46 AM  
**To:** Bunker, Byron <bunker.byron@epa.gov>; Cohen, Janet <cohen.janet@epa.gov>; McKenna, Chris <McKenna.Chris@epa.gov>  
**Subject:** RE: [EXTERNAL] Deliberative - Sinclair Wyoming Rawlins

Hi Byron,

**Ex. 5 Deliberative Process (DP)/ Ex. 4 CBI**

Tom

---

**From:** Bunker, Byron [<mailto:bunker.byron@epa.gov>]  
**Sent:** Tuesday, December 08, 2020 9:41 AM  
**To:** White, Thomas <thomas.white@hq.doe.gov>; Cohen, Janet <cohen.janet@epa.gov>; McKenna, Chris <McKenna.Chris@epa.gov>  
**Subject:** [EXTERNAL] Deliberative - Sinclair Wyoming Rawlins

Thanks Tom.

**Ex. 5 Deliberative Process (DP)/ Ex. 4 CBI**



## Ex. 5 Deliberative Process (DP)/ Ex. 4 CBI

Thanks,

Byron

\*\*\*\*\*

Byron Bunker  
Director Compliance Division  
Office of Transportation and Air Quality  
Environmental Protection Agency  
2000 Traverwood Drive  
Ann Arbor, MI 48105  
[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)  
Phone: (734) 214-4155  
Mobile: (734) 353-9623

\*\*\*\*\*

---

**From:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>

**Sent:** Tuesday, December 08, 2020 9:34 AM

**To:** Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>; Cohen, Janet <[cohen.janet@epa.gov](mailto:cohen.janet@epa.gov)>; McKenna, Chris <[McKenna.Chris@epa.gov](mailto:McKenna.Chris@epa.gov)>

**Subject:** RE: [EXTERNAL] Deliberative - Sinclair Wyoming Rawlins

## Ex. 5 Deliberative Process (DP)/ Ex. 4 CBI

---

**From:** Bunker, Byron [<mailto:bunker.byron@epa.gov>]

**Sent:** Tuesday, December 08, 2020 9:26 AM

**To:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>; Cohen, Janet <[cohen.janet@epa.gov](mailto:cohen.janet@epa.gov)>; McKenna, Chris <[McKenna.Chris@epa.gov](mailto:McKenna.Chris@epa.gov)>

**Subject:** [EXTERNAL] Deliberative - Sinclair Wyoming Rawlins

Hi Tom.

## Ex. 5 Deliberative Process (DP)/ Ex. 4 CBI

Thanks,

Byron

\*\*\*\*\*

Byron Bunker  
Director Compliance Division  
Office of Transportation and Air Quality  
Environmental Protection Agency

2000 Traverwood Drive  
Ann Arbor, MI 48105  
[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)  
Phone: (734) 214-4155  
Mobile: (734) 353-9623

\*\*\*\*\*

---

**From:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>  
**Sent:** Tuesday, December 08, 2020 8:47 AM  
**To:** Cohen, Janet <[cohen.janet@epa.gov](mailto:cohen.janet@epa.gov)>; McKenna, Chris <[McKenna.Chris@epa.gov](mailto:McKenna.Chris@epa.gov)>; Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>  
**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

Janet, Chris and Byron,

## Ex. 5 Deliberative Process (DP)/ Ex. 4 CBI

Tom

---

**From:** Powell, John  
**Sent:** Sunday, December 06, 2020 11:03 PM  
**To:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>  
**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

For review and for the folder.

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Barry Schaps <[BSchaps@stillwaterassociates.com](mailto:BSchaps@stillwaterassociates.com)>  
**Date:** Sunday, Dec 06, 2020, 10:22 PM  
**To:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>  
**Subject:** [EXTERNAL] Sinclair Wyoming Rawlins

## Ex. 5 Deliberative Process (DP)/ Ex. 4 CBI

## Ex. 5 Deliberative Process (DP)/ Ex. 4 CBI

Barry Schaps

Ex. 6 Personal Privacy (PP)

---

**From:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>

**Sent:** Sunday, December 06, 2020 11:19 AM

**To:** Barry Schaps; Ex. 6 Personal Privacy (PP)

**Subject:** Sinclair 2018

Barry,

The Sinclair 2018 should be the top SRE priority.

**Ex. 4 CBI**

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

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Use caution if this message contains attachments, links or requests for information.

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This message does not originate from a known Department of Energy email system.  
Use caution if this message contains attachments, links or requests for information.

\*\*\*\*\*

## Message

**From:** Bunker, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DDF7BCF023D241A9A477A2DC75D5901C-BUNKER, BYRON]  
**Sent:** 12/8/2020 2:26:29 PM  
**To:** White, Thomas [thomas.white@hq.doe.gov]; Cohen, Janet [cohen.janet@epa.gov]; McKenna, Chris [mckenna.chris@epa.gov]  
**Subject:** Deliberative - RE: [EXTERNAL] Sinclair Wyoming Rawlins

Hi Tom.

## Ex. 5 Deliberative Process (DP)/ Ex. 4 CBI

Thanks,

Byron

\*\*\*\*\*

Byron Bunker  
Director Compliance Division  
Office of Transportation and Air Quality  
Environmental Protection Agency  
2000 Traverwood Drive  
Ann Arbor, MI 48105  
[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)  
Phone: (734) 214-4155  
Mobile: (734) 353-9623  
\*\*\*\*\*

---

**From:** White, Thomas <thomas.white@hq.doe.gov>  
**Sent:** Tuesday, December 08, 2020 8:47 AM  
**To:** Cohen, Janet <cohen.janet@epa.gov>; McKenna, Chris <McKenna.Chris@epa.gov>; Bunker, Byron <bunker.byron@epa.gov>  
**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

Janet, Chris and Byron,

## Ex. 5 Deliberative Process (DP)/ Ex. 4 CBI

Tom

---

**From:** Powell, John  
**Sent:** Sunday, December 06, 2020 11:03 PM  
**To:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>  
**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

For review and for the folder.

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Barry Schaps <[BSchaps@stillwaterassociates.com](mailto:BSchaps@stillwaterassociates.com)>  
**Date:** Sunday, Dec 06, 2020, 10:22 PM  
**To:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>  
**Subject:** [EXTERNAL] Sinclair Wyoming Rawlins

## Ex. 5 Deliberative Process (DP)/ Ex. 4 CBI

Barry Schaps

Ex. 6 Personal Privacy (PP)

**Ex. 6 Personal Privacy (PP)**

---

**From:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>  
**Sent:** Sunday, December 06, 2020 11:19 AM  
**To:** Barry Schaps **Ex. 6 Personal Privacy (PP)**  
**Subject:** Sinclair 2018

Barry,

The Sinclair 2018 should be the top SRE priority.

**Ex. 4 CBI**

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

\*\*\*\*\*  
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Use caution if this message contains attachments, links or requests for information.  
\*\*\*\*\*

Message

---

**From:** Hengst, Benjamin [Hengst.Benjamin@epa.gov]  
**Sent:** 1/5/2021 9:26:54 PM  
**To:** Bunker, Byron [bunker.byron@epa.gov]  
**Subject:** FW: Sinclair 2018 Rescoring  
**Attachments:** Sinclair Wyoming Refinery 2018 RFS DOE DEH Scoring.pdf

-----Original Message-----

From: Harlow, David <harlow.david@epa.gov>  
Sent: Tuesday, January 5, 2021 3:33 PM  
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>  
Subject: FW: Sinclair 2018 Rescoring

Ben,

And here's the second of John Powell.

David S. Harlow  
Senior Counsel  
Office of Air and Radiation, USEPA  
WJC-N Room 5409K  
1200 Pennsylvania Avenue NW  
Washington, DC 20460  
202-564-1233  
Harlow.David@epa.gov  
5 U.S.C. § 3331

-----Original Message-----

From: Powell, John <john.powell@hq.doe.gov>  
Sent: Tuesday, January 5, 2021 1:38 PM  
To: Gunasekara, Mandy <gunasekara.Mandy@epa.gov>; Harlow, David <harlow.david@epa.gov>  
Cc: Campbell, Joshua <joshua.campbell@hq.doe.gov>; Bunker, Byron <bunker.byron@epa.gov>  
Subject: Sinclair 2018 Rescoring

Attached is the rescoring for Sinclair's 2018 SRE petition.

John Powell  
Senior Advisor to the Secretary  
U.S. Department of Energy  
1000 Independence Ave., SW  
Washington, DC 20585  
202-586-1814 Mobile: Ex. 6 Personal Privacy (PP)  
John.powell@hq.doe.gov

Ex. 6 Personal Privacy (PP)



## Message

**From:** Bunker, Byron [bunker.byron@epa.gov]  
**Sent:** 12/8/2020 2:51:53 PM  
**To:** White, Thomas [thomas.white@hq.doe.gov]; Cohen, Janet [cohen.janet@epa.gov]; McKenna, Chris [McKenna.Chris@epa.gov]  
**Subject:** RE: [EXTERNAL] Deliberative - Sinclair Wyoming Rawlins

Got it. Sorry, I had misread the previous note **Ex. 5 Deliberative Process (DP) / Ex. 4 CBI**

Thanks,

Byron

\*\*\*\*\*

Byron Bunker  
Director Compliance Division  
Office of Transportation and Air Quality  
Environmental Protection Agency  
2000 Traverwood Drive  
Ann Arbor, MI 48105  
[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)  
Phone: (734) 214-4155  
Mobile: (734) 353-9623

\*\*\*\*\*

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**From:** White, Thomas <thomas.white@hq.doe.gov>  
**Sent:** Tuesday, December 08, 2020 9:46 AM  
**To:** Bunker, Byron <bunker.byron@epa.gov>; Cohen, Janet <cohen.janet@epa.gov>; McKenna, Chris <McKenna.Chris@epa.gov>  
**Subject:** RE: [EXTERNAL] Deliberative - Sinclair Wyoming Rawlins

Hi Byron,

**Ex. 5 Deliberative Process (DP) / Ex. 4 CBI**

Tom

---

**From:** Bunker, Byron [<mailto:bunker.byron@epa.gov>]  
**Sent:** Tuesday, December 08, 2020 9:41 AM  
**To:** White, Thomas <thomas.white@hq.doe.gov>; Cohen, Janet <cohen.janet@epa.gov>; McKenna, Chris <McKenna.Chris@epa.gov>  
**Subject:** [EXTERNAL] Deliberative - Sinclair Wyoming Rawlins

Thanks Tom.

**Ex. 5 Deliberative Process (DP) / Ex. 4 CBI**

## Ex. 5 Deliberative Process (DP)

Thanks,

Byron

\*\*\*\*\*

Byron Bunker  
 Director Compliance Division  
 Office of Transportation and Air Quality  
 Environmental Protection Agency  
 2000 Traverwood Drive  
 Ann Arbor, MI 48105  
[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)  
 Phone: (734) 214-4155  
 Mobile: (734) 353-9623

\*\*\*\*\*

**From:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>

**Sent:** Tuesday, December 08, 2020 9:34 AM

**To:** Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>; Cohen, Janet <[cohen.janet@epa.gov](mailto:cohen.janet@epa.gov)>; McKenna, Chris <[McKenna.Chris@epa.gov](mailto:McKenna.Chris@epa.gov)>

**Subject:** RE: [EXTERNAL] Deliberative - Sinclair Wyoming Rawlins

## Ex. 5 Deliberative Process (DP) / Ex. 4 CBI

**From:** Bunker, Byron [<mailto:bunker.byron@epa.gov>]

**Sent:** Tuesday, December 08, 2020 9:26 AM

**To:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>; Cohen, Janet <[cohen.janet@epa.gov](mailto:cohen.janet@epa.gov)>; McKenna, Chris <[McKenna.Chris@epa.gov](mailto:McKenna.Chris@epa.gov)>

**Subject:** [EXTERNAL] Deliberative - Sinclair Wyoming Rawlins

Hi Tom.

## Ex. 5 Deliberative Process (DP)

Thanks,

Byron

\*\*\*\*\*

Byron Bunker  
 Director Compliance Division  
 Office of Transportation and Air Quality  
 Environmental Protection Agency  
 2000 Traverwood Drive  
 Ann Arbor, MI 48105

[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)

Phone: (734) 214-4155

Mobile: (734) 353-9623

\*\*\*\*\*

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**From:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>

**Sent:** Tuesday, December 08, 2020 8:47 AM

**To:** Cohen, Janet <[cohen.janet@epa.gov](mailto:cohen.janet@epa.gov)>; McKenna, Chris <[McKenna.Chris@epa.gov](mailto:McKenna.Chris@epa.gov)>; Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>

**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

Janet, Chris and Byron,

## Ex. 5 Deliberative Process (DP)

Tom

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**From:** Powell, John

**Sent:** Sunday, December 06, 2020 11:03 PM

**To:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>

**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

For review and for the folder.

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Barry Schaps <[BSchaps@stillwaterassociates.com](mailto:BSchaps@stillwaterassociates.com)>

**Date:** Sunday, Dec 06, 2020, 10:22 PM

**To:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>

**Subject:** [EXTERNAL] Sinclair Wyoming Rawlins

## Ex. 5 Deliberative Process (DP) / Ex. 4 CBI

## Ex. 5 Deliberative Process (DP) / Ex. 4 CBI

Barry Schaps

Ex. 6 Personal Privacy (PP)

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**From:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>

**Sent:** Sunday, December 06, 2020 11:19 AM

**To:** Barry Schaps; Ex. 6 Personal Privacy (PP)

**Subject:** Sinclair 2018

Barry,

**Ex. 5 Deliberative Process (DP)**

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

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This message does not originate from a known Department of Energy email system.  
Use caution if this message contains attachments, links or requests for information.

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## Message

**From:** McKenna, Chris [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=451B675850124BF4A9DB1D577EE3B9AF-MCKENNA, CH]  
**Sent:** 12/8/2020 2:46:35 PM  
**To:** White, Thomas [thomas.white@hq.doe.gov]  
**CC:** Cohen, Janet [cohen.janet@epa.gov]; Bunker, Byron [bunker.byron@epa.gov]  
**Subject:** RE: Sinclair-Rawlins 2018 SRE rescore (OLB score typo)

OK, thanks again for the clarification.

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

---

**From:** White, Thomas <thomas.white@hq.doe.gov>  
**Sent:** Tuesday, December 08, 2020 9:35 AM  
**To:** McKenna, Chris <McKenna.Chris@epa.gov>  
**Subject:** RE: Sinclair Wyoming Rawlins

Hi Chris,

This is not the final version. It is an interim version. The final version will have the correction in it.

Thanks,  
Tom

---

**From:** McKenna, Chris [mailto:McKenna.Chris@epa.gov]  
**Sent:** Tuesday, December 08, 2020 9:33 AM  
**To:** White, Thomas <thomas.white@hq.doe.gov>  
**Subject:** [EXTERNAL] RE: Sinclair Wyoming Rawlins

Thanks for the clarification - please send us a revised version.

---

**From:** White, Thomas <thomas.white@hq.doe.gov>  
**Sent:** Tuesday, December 08, 2020 9:31 AM  
**To:** McKenna, Chris <McKenna.Chris@epa.gov>  
**Subject:** RE: Sinclair Wyoming Rawlins

**Ex. 5 Deliberative Process (DP)**

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**From:** McKenna, Chris [mailto:McKenna.Chris@epa.gov]  
**Sent:** Tuesday, December 08, 2020 9:26 AM  
**To:** White, Thomas <thomas.white@hq.doe.gov>  
**Subject:** [EXTERNAL] RE: Sinclair Wyoming Rawlins

Tom,

**Ex. 5 Deliberative Process (DP)**

Thanks again,  
Chris

---

**From:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>  
**Sent:** Tuesday, December 08, 2020 8:47 AM  
**To:** Cohen, Janet <[cohen.janet@epa.gov](mailto:cohen.janet@epa.gov)>; McKenna, Chris <[McKenna.Chris@epa.gov](mailto:McKenna.Chris@epa.gov)>; Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>  
**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

Janet, Chris and Byron,

## Ex. 5 Deliberative Process (DP)

Tom

---

**From:** Powell, John  
**Sent:** Sunday, December 06, 2020 11:03 PM  
**To:** White, Thomas <[thomas.white@hq.doe.gov](mailto:thomas.white@hq.doe.gov)>  
**Subject:** FW: [EXTERNAL] Sinclair Wyoming Rawlins

For review and for the folder.

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Barry Schaps <[BSchaps@stillwaterassociates.com](mailto:BSchaps@stillwaterassociates.com)>  
**Date:** Sunday, Dec 06, 2020, 10:22 PM  
**To:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>  
**Subject:** [EXTERNAL] Sinclair Wyoming Rawlins

## Ex. 5 Deliberative Process (DP) / Ex.4 CBI

## Ex. 5 Deliberative Process (DP) / Ex.4 CBI

Barry Schaps

Ex. 6 Personal Privacy (PP)

Ex. 6 Personal Privacy (PP)

---

**From:** Powell, John <[john.powell@hq.doe.gov](mailto:john.powell@hq.doe.gov)>

**Sent:** Sunday, December 06, 2020 11:19 AM

**To:** Barry Schaps <[Ex. 6 Personal Privacy \(PP\)](#)>

**Subject:** Sinclair 2018

Barry,

The Sinclair 2018 should be the top SRE priority.

**Ex. 4 CBI**

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))



## DOE Application of the Small Refinery Scoring Matrix for the Sinclair Wyoming Refinery for Exemption as an Obligated Party under the Renewable Fuel Standard

### Background

Section 211(o)(9)(A)(ii) of the CAA required that DOE conduct a study assessing whether the Renewable Fuel Standard (RFS) would impose a “disproportionate economic hardship” on small refineries<sup>1</sup>. This study was required to determine whether the blanket exemption for small refineries as obligated parties under the RFS should be extended for two years after 2010, the year that the blanket exemption expired. EPA was required to grant the continued exemption to all small refineries that were determined by DOE to experience “disproportionate economic hardship” if they became obligated parties after 2010.

In order to comply with the CAA, DOE developed a methodology to determine whether specific refineries would experience “disproportionate economic hardship.” The methodology required business information for the small refineries. This was acquired through a survey of all small refineries. This survey was sent to the owners of 59 refineries. DOE received data for 25 refineries but only analyzed the data for 18 of these refineries<sup>2</sup>. After completing the *Small Refinery Exemption Study* it was provided by the Secretary of Energy to the EPA Administrator.

The CAA also requires that EPA consult with DOE concerning individual applications by small refineries for an exemption from RFS requirements.<sup>3</sup> In order to fulfill this requirement, DOE has applied the scoring matrix, developed for the Small Refinery Exemption Study, to refineries requesting an exemption. DOE employs information provided by EPA from the applicants’ request to see whether this refinery would have received an exemption based on the criteria used in the *Small Refinery Exemption Study*. This scoring matrix includes two general categories; a structural and economic metric and a viability metric that together are used to evaluate whether a refinery faced disproportionate economic hardship.

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<sup>1</sup> Small refineries are defined as those facilities with aggregate crude oil throughput that does not exceed 75,000 barrels per calendar day.

<sup>2</sup> Seven survey responses were not analyzed because the refineries for which the survey response was provided did not meet the CAA definition of a small refinery or because the survey response was incomplete.

<sup>3</sup> The CAA states “(B) Petitions based on disproportionate economic hardship; (i) Extension of exemption. A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.; (ii) Evaluation of petitions In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.; (iii) Deadline for action on petitions The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

## Sinclair Rawlings, Wyoming Refinery

EPA consulted with DOE to aid in their assessment of whether the Sinclair Rawlings Wyoming refinery should receive a RFS exemption for 2019. DOE is responding to EPA's request by providing values and an explanation for the scoring matrix for this refinery.

Based on the results from the DOE RFS small refinery exemption scoring matrix, described above, the Sinclair refinery received a score of **Ex. 4 CBI** in the structural and economic index and a score of **Ex. 4 CBI** in the viability index.

Since the Sinclair Rawlings Wyoming refinery scored **Ex. 4 CBI** in both the structural and economic index and the viability index, DOE findings are that EPA consider providing a **Ex. 4 CBI** percent exemption from the 2019 RFS<sup>4</sup>.

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<sup>4</sup> This is in accordance with DOE's fiscal year 2016 appropriations bill that directs the Secretary of Energy to recommend to the EPA Administrator a 50 percent exemption of the RFS requirements for the petitioner that scores above a 1.0 on either the structural and economic metric or viability metric used in evaluating disproportionate economic hardship.

2019 Sinclair  
Wyoming  
Refining  
Company -  
Rawlins, WY

## Terms:

## Scoring

## Weighting

1 Structural			PADD	4
		0 = good access (BB- rating or above); 5 = moderate access (rating in B's below BB-); 10 = poor access (rating in C's or below; or D/E ≥ 50%)		
a Access to capital/credit				
b Other business lines besides refining & marketing		0 = other lines; 10 = no other lines		
c Market acceptance of renewables (Local)		0 = products accepted; 10 = product not accepted		
i E10		0 = high acceptance; 5 = some resistance		
ii E85		not scored because of small E85 volumes		
iii Biodiesel		not scored because of difficulty determining measurement		
d Percentage of diesel production		0 = $D/(G+D) \leq$ industry avg.; 5 = industry avg. < $D/(G+D) < 40\%$ ; 10 = $D/(G+D) \geq 40\%$		
e Subject to exceptional state regulations		0 = not subject; 5 = some additional barriers; 10 = subject to exceptional state regs		
2 Economic				
a Relative refining margin ranking		10 = negative; 5 = non-negative and below 3-year industry avg.; 0 = at or above 3-year industry average		
b Renewable fuel blending (% of production)				
i Ethanol blending		0 = ≥75%; 5 = 25% - 74%; 10 = <25%		
ii Biodiesel blending		0 = 1.1% of diesel production; 10 = <1.1% of diesel production		
iii Other Advanced Biofuel blending		0 = some blending; 10 = no blending		
c In a niche market		0 = niche; 5 = moderate niche; 10 = no niche		
d RINs net revenue or cost		0 = revenue > cost; 10 = revenue < cost		
Subtotal				
Average Subtotal				
Structural/Economic Index				
3 Viability				
a Compliance cost eliminates efficiency gains (impairment)		0 = no impact on efficiency; 5 = moderate impact; 10 = significant impact		
b Individual special events		0 = no special event; 5 = moderate event; 10 = significant event		
c Compliance costs likely to lead to shut down		0 = not likely to shut down; 10 = likely to shut down		
Subtotal				
Average Subtotal				
Viability Index				

Ex. 4 CBI

## Pre-decisional/Deliberative Process

# Confidential Business Information

## Scoring Petitions for Small Refinery Exemption

### Sinclair Wyoming Refining Company – Rawlins, WY 2019

*Section 1(a) Access to Capital/Credit*

This section is scored with consideration of the credit rating of the refinery and the corporate entity. The purpose of this metric is to determine if a refinery has the ability to borrow and invest as may be needed to meet RFS requirements.

DOE scores companies with poor access to capital a ten, as demonstrated by an S&P (or equivalent) long-term credit rating of C's or below or a debt to equity ratio of 50 percent or above. If a company's credit rating in the B's below BB-, it is scored a five, or a zero if BB- or above.

**Refinery Score Explained**

# Ex. 4 CBI

*Section 1(b) Other Lines of Business Besides Refining and Marketing*

Other lines of business are intended to help determine if a refiner has a portfolio of businesses that will lower the volatility of the refiner's earnings or if the refiner's profitability is solely dependent on transportation fuel margins. Much as diversifying a stock portfolio reduces the exposure to a single stock, diversifying business lines will reduce the exposure to a single revenue source (transportation fuels margins) for a refiner.

This section considers both the refinery level and the corporate level businesses. Consistent with the 2011 Study, DOE has always considered an applicant's additional lines of business, in particular upstream operations such as exploration and development that are less correlated with refining, that tend to smooth the firm's cash flows and improve its ability to borrow money at closer to investment grade rates.<sup>1</sup> Typically, exploration and production are not operated within the refinery level entity, but rather with an affiliated corporation, compelling inclusion of the affiliated businesses in the other business line analysis. Refineries with other lines of business score a zero, and those refineries without other lines of business score a ten.

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<sup>1</sup> 2011 Study at 34.

## Pre-decisional/Deliberative Process

## Refinery Score Explained

# Ex. 4 CBI

*Section 1(c) Local Acceptance of Renewables*

Section 1(c) was intended to address the local market consumer acceptance of a renewable fuel versus the national acceptance of that fuel. Consumer acceptance is indicated by retail sales, not by wholesales of products.<sup>2</sup> Thus, retail sales volumes are needed to show the consumer market acceptance of a fuel. Of the three fuels addressed in this section (E10, E85, and biodiesel), only the consumer market acceptance of E10 (subsection 1(c)(i)) is scored for any refinery under the 2011 Study because volumetric data for retail sales is not available at the local level or at the national level for E85 or biodiesel. Consequently, the narrative text on page 34 of the 2011 Study explained that metrics were only fully developed for E10, and specifically noted that scoring for E85 and Biodiesel was “Reserved for later evaluation.”

Subsection 1(c)(i): As described in the 2011 Study for E10 gasoline, refiners in high acceptance states (with 75 percent or greater E10 blending) score a zero, refiners who reside in states with less than 75 percent E10 blending receive a five, and those with less than 25 percent blending receive a ten. Currently, E10 is widely accepted in the retail gasoline market.<sup>3</sup>

## Refinery Score Explained

# Ex. 4 CBI

*Section 1(d) – Percentage of Diesel Production*

This metric is intended to credit a refiner that makes a high percentage of its transportation fuel as diesel fuel. Compliance with the RFS requirements is more difficult than gasoline compliance. As noted in the 2011 Study, refineries that produce less than or equal to the industry average of approximately 32 percent diesel production receive a score of zero, those with greater than the industry average but less than 40 percent receive a score of five, and those at 40 percent diesel or above score a ten.

<sup>2</sup> See 2011 Study at 15.

<sup>3</sup> *Id.* (“Blends of petroleum-based gasoline with 10% ethanol, commonly referred to as E10, account for more than 95% of the fuel consumed in motor vehicles with gasoline engines.”).

## Pre-decisional/Deliberative Process

## Refinery Score Explained

**Ex. 4 CBI***Section 1(e) - Subject to Exceptional State Regulations*

This metric is intended to credit those refineries that are located in states that impose restrictive regulations that inhibit the ability of a refiner to meet RFS requirements. According to the 2011 Study,<sup>4</sup> certain states require refiners to sell unblended fuel. Refiners are required to purchase RINs to meet their obligations even though they have no blending opportunities with this fuel. Also, under certain unusual circumstances, the interplay between the State regulations (such as the California Low Carbon Fuel Standard) and the Federal RFS may increase compliance costs.

Those refiners subject to exceptional regulations receive a ten, those with some barriers for compliance are scored a five, and those not subject to exceptional state requirements are scored a zero.

## Refinery Score Explained

**Ex. 4 CBI***Section 2(a) Relative Refining Margin*

As noted in the 2011 Study, refining margins differ from refiner to refiner for many reasons. To eliminate market volatility, a three-year average margin for all products is calculated for the petitioning refinery. This three-year average, supplied to DOE by EPA on an annual basis, is compared to the national three-year average margin for all products. Refineries with a negative net average margin are scored a ten, those below the industry average but with a non-negative net average margin are scored a five, and those at or above the industry average are scored a zero.

## Refinery Score Explained

**Ex. 4 CBI**

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<sup>4</sup> 2011 Study at 34.

## Pre-decisional/Deliberative Process

*Section 2(b) Renewable Fuel Blending*

Section 2(b) is intended to measure an individual refinery's renewable fuel blending by examining the percentage of refinery production of a fuel type (gasoline or diesel) that is blended with a biofuel. The higher percentage of a fuel a refiner blends with renewables, the easier it will be for the refiner to meet RFS requirements. Of the three fuel types addressed in this section (Ethanol, Biodiesel, and Advanced Biofuels), only Ethanol is scored (subsection 2(b)(i)) and has ever been scored for any refinery under the 2011 Study. Although the 2011 Study provided a scoring level for metrics 2(b)(ii) (Biodiesel) and 2(b)(iii) (Other Advanced Biofuel), the study notes that it was "reserved for later evaluation" and, in contrast to the Ethanol metric, did not provide explanatory text to inform the evaluation for these two metrics.<sup>5</sup> Because there is still little or no data collected on biodiesel and advanced biofuel blending at refineries needed for a comparison to determine if there is a disproportionate economic impact, these two metrics still are not scored.

Subsection 2(b)(i): This metric examines the percentage of the gasoline pool that is blended with ethanol. The 2011 Study provides that refineries with 75 percent or more of their gasoline blended to E10 were scored a zero, those with 25 to 74 percent of their gasoline blended to E10 were scored a five, those with less than 25 percent blended were scored a ten.<sup>6</sup>

**Refinery Score Explained**

# Ex. 4 CBI

*Section 2(c) – In a Niche Market*

This metric is intended to examine the ability of a refiner to enhance refining margins through either the lack of transportation fuel competition, low cost feedstock, or production of non-transportation fuel products.

As noted in the explanatory text on page 35 of the 2011 Study,<sup>7</sup> this metric was intended to determine if a refinery was in a "niche" market in that it has access to specific geographical markets with limited alternative finished product supply or access to distressed crude oil supply, thus creating potential for higher than industry refining margins for the niche refiner. Similarly, refineries classified as "niche" also are those that "produce a specialty slate of products (lube oils, greases, asphalt, etc.) in addition to gasoline and diesel." The sale of these types of products will also result in the potential for higher than industry refining margins.

The scoring levels for this metric are: Refineries in a niche market are scored a zero; those with a "moderate niche impact" are scored a five; and those without a niche market are scored a

<sup>5</sup> 2011 Study at 35.

<sup>6</sup> 2011 Study at 33.

<sup>7</sup> 2011 Study at 35.

## Pre-decisional/Deliberative Process

ten. The explanatory text also states that landlocked refiners whose immediate market does not have access to a refined product pipeline are scored a zero as are those whose primary products are not transportation fuels. Landlocked refiners with direct access to single pipeline are scored a five, and refiners with access to more than one pipeline are scored a ten.

## Refinery Score Explained

# Ex. 4 CBI

## Section 2(d) – RINs net revenue or cost

This metric was intended to determine whether RIN purchases or sales constitute a net revenue or cost, and a score of ten is awarded if RINs are a net cost or a score of zero if a net revenue generator. However, this metric was not scored in the 2011 Study because there was a “lack of consistency” among the responders to the DOE small refiner survey that was designed to evaluate this metric.<sup>8</sup> Because there was no information available to compare a refinery’s RIN cost/revenue with an industry average obtained from study of refineries’ data (rather than a study of national price data) to determine disproportionate economic hardship, this metric is not scored.

## Section 3

Although the 2011 Study only awarded potential scores of zero or ten for the section 3, DOE adopted an addendum to the study in May 2014, adding an intermediate score for metrics 3(a)<sup>9</sup> and 3(b)<sup>10</sup> in the viability index and reasoning that circumstances have changed since the 2011 study was completed. Generally, there is an improved business climate for refineries that is associated with the country’s economic recovery. In addition, refiners have now had many years since the initiation of the RFS program in 2007 to develop business practices to meet RFS obligations. In assisting EPA in evaluating petitions for small refinery RFS exemptions for 2013, DOE has found that some small refineries should be scored an intermediate level of 5 for metric 3a [whether compliance costs eliminate efficiency gains]. This intermediate score acknowledges an impact of RFS compliance costs on efficiency gains, but at a level lower than would justify a score of 10. DOE also has concluded that an intermediate score of 5 may be appropriate for viability metric 3b [individual special events causing a temporary negative impact] in certain circumstances. Both of these viability metrics address impacts that may

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<sup>8</sup> 2011 Study at 35.

<sup>9</sup> The 2011 Study provided for a score of zero if “no impact on efficiency” or ten if “impact on efficiency”. *Id.* at 36.

<sup>10</sup> The 2011 Study provided for a score of zero if “no special event” or ten if “special event impacting viability”. *Id.*



## Pre-decisional/Deliberative Process

occur across a continuum, and providing for the possibility of an intermediate score allows DOE to more accurately assess an individual refinery's economic situation.<sup>11</sup>

*Section 3(a) – Compliance Costs Eliminate Efficiency Gains (Impairment)*

As described in the 2011 Study, this metric evaluates whether the totality of factors, including both survey results and public information, would reduce the profitability of the firm enough to impair future efficiency improvements. While this would not lead to immediate shutdown, given the increasingly competitive refining market, significant constraints on efficiency improvements would eventually leave many small refineries at risk.

## Refinery Score Explained

**Ex. 4 CBI***Section 3(b) – Individual Special Events*

This metric evaluates whether refinery-specific events (such as a shutdown due to an accident, and subsequent loss of revenue) in the recent past have a temporary negative impact on the ability of the refinery to comply with the RFS. If an event occurs that affects multiple refineries, it would not constitute a refinery-specific event that would have a *disproportionate* economic impact.

## Refinery Score Explained

**Ex. 4 CBI***Section 3 (c) - Compliance Costs Likely to Lead to Shut-Down*

Some refineries have a unique vulnerability such as a weak competitive position and any significant additional burden could cause bankruptcy or closure. This metric covers those refineries indicating that compliance may lead to such an outcome. A score of ten is awarded if the refinery is "likely to shut down" or a score of zero if not.

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<sup>11</sup> Office of Energy Policy and Systems Analysis, U.S. Dept. of Energy, *Addendum to the Small Refinery Study: An Investigation into Disproportionate Economic Hardship*, Available at: <https://www.epa.gov/sites/production/files/2016-12/documents/rfs2-small-refiner-study-addendum-05-2014.pdf> (May 2014) at 1.

Pre-decisional/Deliberative Process

Refinery Score Explained

**Ex. 4 CBI**